CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DATE/TIME: **Monday, April 20, 2009**
7:00 p.m.
LOCATION: **Police Department Auditorium**
870 Santa Barbara Drive

Roll Call

1. Minutes of March 16, 2009 (*attachment*)
2. Report from Subcommittee on DEIR for Marina Park (1700 W. Balboa Blvd.) and review and approval of comments *(DEIR Executive Summary and Subcommittee report attached)*
3. Report from Subcommittee on DEIR for AERIE project (101 Bayside Place and 201 and 207 Carnation Avenue) and review and approval of comments *(DEIR Executive Summary and Subcommittee report attached)*
4. Report from Subcommittee on NOP for Newport Banning Ranch development project (5200 W. Coast Highway) and review and approval of comments *(Subcommittee report attached)*
5. Report from Subcommittee on NOP for City Hall and Park project (1000, 1100, 1300 and 145 Avocado Avenue) and review and approval of comments *(Subcommittee report attached)*
6. Task Force on Green Development Representatives' Report
7. Coastal/Bay Water Quality Committee Representatives' Report
8. Economic Development Committee Representative's Report
9. Report from Staff on Current Projects
10. Public Comments
11. Future Agenda Items
12. Adjournment

NEXT MEETING DATE: ***May 18, 2009***

*Attachments can be found on the City's website http://www.city.newport-beach.ca.us. Once there, click on ***Agendas and Minutes*** *then scroll to and click on* ***Environmental Quality Affairs***. If attachment is not on the web page, it is also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor.

Any writings or documents provided to a majority of the Environmental Quality Affairs Committee regarding any item on this agenda will be made available for public inspection in the Planning Department located at 3300 Newport Blvd., Newport Beach, CA 92663 during normal business hours.

Attachment No. 1

Draft Minutes – March 16, 2009

CITY OF NEWPORT BEACH
ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT MINUTES 3-16-09

Draft minutes of the Environmental Quality Affairs Committee held at the City of Newport Beach City Council Chambers, 3300 Newport Boulevard, on **Monday, March 16, 2009.**

Members Present:

X	Nancy Gardner, Council Member	X	Barbara Thibault
X	Michael Henn, Council Member	X	Laura Curran
X	Kenneth Drellishak, Chair	X	Vincent Lepore
X	Kimberly Jameson	X	Kevin Nolen
X	Kevin Kelly	X	Arlene Greer
X	Michael Pascale	E	Sandra Haskell
X	Michael Smith	E	Kristine Adams
X	Jeff Herdman	E	Timothy Stoaks
E	Nick Roussos		
X	Joan Penfil	E	Charles McKenna
X	Bruce Asper	X	Ray Halowski
X	Merritt Van Sant	E	Michael Alti

Staff Representatives: **Guests:**

X	Sharon Wood, Assistant City Manager	Lauren Kilbride

Chairperson Ken Drellishak called the meeting to order at 7:06 p.m. New member Kevin Nolen introduced himself.

1. Minutes of February 23, 2009

Ray Halowski moved to approve the minutes of February 23, 2009, with a correction showing Joan Penfil as excused. Arlene Greer seconded the motion.

Motion passed unanimously

2. Review of Marina Park Subcommittee assignments and questions

Chairperson Drellishak reviewed assignments and reminded members that comments are due to him by April 10.

3. Recommendation to City Council on leaf blower regulation

Chairperson Drellishak reviewed the report. Merritt Van Sant moved that this item be tabled for six months. Laura Curran seconded the motion.

Motion passed unanimously

4. Report on additional smoking prohibitions

Chairperson Drellishak, Council Member Henn and Sharon Wood reported on the City Council study session on this topic, and the Council's direction for staff to draft an ordinance for Council consideration.

5. Appointment of subcommittee to review Banning Ranch Notice of Preparation and Draft Environmental Impact Report

Chairperson Drellishak stated he will ask Michael Alti, Kristine Adams and Charles McKenna to serve on the subcommittee to review the NOP. Members will be added when the DEIR is released for public review.

6. Task Force on Green Development Representative's Report

Council Member Gardner reported that subcommittees are reviewing draft CEQA Guidelines related to greenhouse gas impacts and the State Green Building Code.

7. Coastal/Bay Water Quality Committee Representative's Report

Council Members Gardner and Henn announced that Sage Hill School students are holding an Eco Fashion Show fundraising event.

8. Economic Development Committee Representative's Report

Chairperson Drellishak reported that the EDC agenda for March includes a discussion by the Daily Pilot.

9. Report from Staff on Current Projects

Sharon Wood reported that the Planning Department has 10 DEIRs in preparation, and EQAC will be busy through the rest of the year.

10. Public Comments

Arlene Greer and Kevin Kelly reported that the Green Building 101 program was a success. Laura Curran announced an Orange County Register contest on greening your house.

11. Future Agenda Items

April 20: Banning Ranch NOP and Marina Park DEIR

12. Adjournment

Chairperson Drellishak adjourned the meeting at 8:05 p.m.

Attachment No. 2

Subcommittee Report and Executive Summary on DEIR for Marina Park

To: Rosalinh Ung 20 April 2009
Associate Planner
City of Newport Beach Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658-8915

From Environment Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Comments on Marina Park DEIR dated February 26, 2009

EQAC is pleased to take this opportunity to provide comments on the referenced DEIR. Our comments are generally listed in their order of appearance in the documents with page and paragraph references as needed. We hope that they are constructive and assist the proponent in producing the best possible result for the City of Newport Beach

2. Executive Summary

Refer to Table 2-1, Executive Summary Matrix (pp. 2-2 to 29). The logic in this Table is confusing or wrong.

Environmental Impacts under Project Specific or Cumulative (left side of Table) should lead to Mitigation Measures (center of Table) and result in improvements as noted in Level of Significance after Mitigation (right side of Table). For example, Air Quality Impact 5.2-A (pg. 2-4) is shown as potentially significant, leading to 3 mitigation measures, resulting in less than significant after mitigation. However, Air Quality Impact 5.2-1 (pg. 2-5, 6, 7, 8) is shown as less than significant, leading to 11 mitigation measures resulting in less than significant after mitigation. Shouldn't the original impact have been shown as potentially significant?

Cultural Resources Impact 5.4-A (pg. 2-11) is shown as no impact leading no mitigation resulting in less than significant after mitigation. Did no mitigation result in deterioration? Cultural Resources Impact 5.4-D (pg. 2-12) is shown as less than significant but cites a mitigation measure which could stop or delay the project for a significant period of time. Doesn't that make the Impact potentially significant?

Geology and Soils Impact 5.5-D (pg. 2-14) goes from potentially significant to no impact with no mitigation measures. How is this possible?

Hazards and Hazardous Materials Impact 5.6-G (pg. 2-16) asserts no project impact related to implementation of an "adopted emergency response plan or emergency evacuation plan". However, Balboa Blvd. is the main peninsula emergency response and evacuation route, and it will be occupied by trucks and construction equipment during significant portions of the development phase. This slow-moving traffic is a potentially significant impact and should be addressed with a specific mitigation measure assuring that there is always space on-site for all such project related equipment in the event that Balboa Blvd is needed for emergencies and/or Peninsula evacuations.

Land Use and Planning Impact 5.8-B (pg. 2-22) relates to project conflict "with any applicable land use plan…" and asserts a less than significant impact. How does this become no impact with no proposed mitigation?

Public Services Impact 5.10-D (pg. 2-25) is shown as Beneficial, but results in no impact after no mitigation. Shouldn't the final result be Beneficial?

5. Environmental Impact Analysis

5.1 Aesthetics

In general, the impact on environmental aesthetics is a major improvement for the proposed project area. The removal of current vegetation and replacement with new vegetation is also a monumental improvement and will be more "green" and visually appealing. However, the developer should consider the following comments in planning and mitigation for the project.

Open space
It is planned to replace the open green space (American Legion Park) next to the American Legion with two (2) public tennis courts. Included will be the elimination of 6 to 10 mature trees. This will contribute to the ongoing lack of parks on the Peninsula. Eliminating the park and the mature trees surrounding it will lead to a loss of scenic and recreational resources. Is there a way to save these mature trees?

Viewers
Viewers affected by the proposed changes will include those attending events within the American Legion facility and residential viewers on 15th street. American Legion Park will be replaced by two tennis courts, including fencing, tennis netting and lights. Court lights and glare will replace the current darkness. Residents will be affected by the additional light and noise. Social occasions at the American Legion Hall will be disrupted by the additional noise and glare from the adjacent tennis courts.

Recreation and open space
To produce view opportunities for motorists driving on Balboa Boulevard, 4 city tennis courts will be removed and replaced by 2 new courts. At present, the 4 courts are well utilized. Fees charged for tennis lessons produce revenue for the city. A reduction in recreational facilities will lead to overuse of the available courts and have a negative environmental impact on the area.

Transportation
Parking for the project seems inadequate at 153 spaces in spite of the parking allocation chart on pg. 5.11-14. The allotted spaces will not account for the number of additional motorists attracted to the new facility for general recreational use of the bay beach. No realistic parking provision is made for this traffic in the parking analyses of Appendices

J&K. Also, what provisions will be implemented to assure that ocean beach users will not consume parking spaces meant for Marina Park users?

Sailing Center and Lighthouse
The Balboa Center, at 35 feet 6inches, is over the 35-foot standard of height. The Lighthouse, at 73 feet, is double the Shoreline Height Requirement, adopted over 30 years ago. It is visually obtrusive to peninsula residents. Despite the addition of a light on the top of the Lighthouse, it also adds an unnecessary aviation obstacle. With the flatness of the land surrounding the proposed building area, light and glare would be visible for some distance. It would substantially affect the entire peninsula region and its residents, both visually and as an additional source of light pollution.

5.2 Air Quality

Any and all air quality impact analyses and assessments for Marina Park in Newport Beach appear to be inaccurate to the extent they factor in, or are based on, Local Air Quality Measurements taken at the Source Receptor Area (SRA) 18. For measurements on ozone and carbon monoxide, the closest SCAQMD air quality monitoring station for SRA 18 is in Costa Mesa at Mesa Verde Drive. Measurements of particulate matter pollutants (PM_{10} and $PM_{2.5}$) are drawn from a station in Mission Viejo. *See* 5.2-1 and 5.2-2, pages 5.2-10 through 5.2-11. These data do not represent actual Newport Beach air quality, or air quality on the Peninsula. Why is there no analysis of the local, immediately proximate impacts to Newport Beach residents?

As the DEIR acknowledges, the South Coast Air Basin is designated as "non-attainment because the ambient air quality for the area *already* exceeds the State and National standard for the particulate matter pollutants (PM_{10} and $PM_{2.5}$), the State standards for ozone (1 hour), and the National standards for ozone (8 hour). *See* Page 5.2-11.

To address the proposed project's impact on the existing noncompliance levels, the DEIR states that the ambient concentrations of pollutants are measured at the SRA station, and based upon these concentrations, a Localized Significance Threshold ("LST") is developed, which in turn represents the "maximum emissions from a project that will not cause or contribute to an exceedance of the most stringent applicable state or national ambient air quality standard." *See, e.g.,* Pages 5.2-25 through 5.2-29.

However, as addressed above, the SRA (and therefore LST figures) do not account for the projected cumulative construction and operational impacts of projects missing from Table 4.1 (pg, 4.5)-Aerie, Sunset Ridge, Banning Ranch. Thus, it appears that the DEIR's conclusions that the maximum emissions from the impacts are less than significant (either before or after mitigation) cannot be not based on accurate data because the LSTs are not based on accurate data (See Section 7 of this report).

The DEIR is missing any analysis that incorporates the South Coast Air Quality Management District's (SCAQMD) "all feasible measures" recommendation. It appears the EIR should be amended to include such discussions. In the beginning of the discussion on Air Quality, the EIR expressly states that the SCAQMD submitted a comment letter in response to the NOP on Marina Park. One of the strong recommendations made by SCAQMD was that the Marina Park air quality analyses include:

> "Implementation of all feasible measures beyond what is required by law to minimize or eliminate significant adverse air quality impacts".

The DEIR states affirmatively that it "incorporated" that suggestion (*See* "5.2.1 Introduction" at page 5.2-1)

However, none of the analyses concerning air quality even mention any measures "beyond what is required by law," and the *regional* air quality measurements. Instead of also looking at how an impact can be reduced by "measures beyond what is required by law," most of the analyses conclude that the impact at issue amounts to "no impact" or is "less than significant" (and thus requires no mitigation of any sort) because it Is consistent with a general plan "policy" or a guideline. This approach appears backwards and circumvents the spirit of the SCAQMD recommendation.

The concerns are underscored by the fact that the "legal" standards by which the EIR analyses determine compliance are in the context of the local air quality's violations of both State and National air quality standards.

Although the DEIR refers to two mitigation measures to be employed for the air quality impacts, it does not explain how these measures actually reduce the contaminants on the short-term (construction) or permanent (operational) bases. More information appears necessary.

5.3 Biological Resources

The Project Objectives are missing a critical component, i.e. the opportunity to showcase the bay setting and its habitat, and make it part of the visitor experience.

Educational & recreational benefits generated through such habitat restoration to animal communities, especially birds and insects, as well opportunities to use native plants for landscaping in a way that represents the natural habitat and setting are possible. This could then be interpreted and made part of the visitor experience, encouraging them to care for the marine environment. For example, the existing plant matter is not native to the site or the coastal environment and the approach calls to merely replace the plants with more ornamental plants and the palm trees. There is an opportunity to showcase coastal plant habitat, consistent with the marine environment, and discuss how these plants are site adapted for life near the tidal and bay marine flows.

Anecdote- A recent visit with a small child to Crystal Cove revealed pictures of the Acrobat Beetle and the Monkey Flower. They were observed by the child who looked for them throughout the visit, and, upon finding them, sat and studied them. He was educated and intrigued and that was only possible because the habitat is there to experience. Marina Park could provide similar opportunities for tidelands habitat observing.

What is impact of park lighting on night sky? Will it be more or less than current? How could that impact the ability of birds to nest at the site?

5.4 Cultural Resources

In the cultural resources area, based both on responses from Native American Assoc. resources and their own historic study, the DEIR concludes that there are no known cultural resources within the project area and thus there will be no impact on cultural resources on the implementation of the Marina Park project. In spite of this carefully researched conclusion, the inclusion in the project for the potential use of paleontologists to analyze any cultural artifacts (including human remains) that could be unearthed during construction is an important and cautious step that must be monitored. The requirement to stop for this intervention, should it be necessary during grading and construction, is both prudent and reasonable.

5.6 Hazards and Hazardous Materials

5.6.2 (pp5.6-5 to 5.6-6), Sediment Evaluation

This section describes core sampling done to test for hazardous materials. It describes Areas A,B &C as sites of core samples but fails to plot these locations on a map. Also, it describes the corings taking place above and below "the 0 feet MLLW". It fails to define this description. (Calls to the city failed to provide a definition.) This is troubling for two reasons.

1. Pg. 5.6-6 states "soils were tested based on their consistency to be deposited....." at various sites, but

2. 5.6-A (Pg 5.6-7) states that"during construction activities, the proposed marina area will be dredged to -12 MLLW". This would seem to indicate that they will be digging much deeper than the core samples (0 feet MLLW) and dredging samples noted on pg 5.6-6. It seems that deep core samples should be done considering the close proximity of the contaminated Rhine Channel and shipyard areas. Core samples should be obtained to identify potential hazardous materials at -12 feet MLLW (whatever that means)

Impact 5.6-B (pg 5.6-8) Accident Conditions - Project-Specific Analysis
Refers to "extensive excavation of the marina.....for a relatively limited time." This is vague and overly broad. The hazardous materials removed from the excavation will have to be removed from the site. Given the location of the project, heavy traffic will be an issue. Also, if a spill or truck accident occurs on W. Balboa Blvd. it could cause an extreme impact. The project site is quite a distance from the branching (alternative route) at W. Superior. The section further states that "because of the limited duration of these activities....the potential for hazard impact during these activities would be less than significant". A detailed time table for dredging, truck staging, barges (if needed) and traffic management should be prepared and submitted before work begins.

Referring to the operational marina (pg 5.6-8) the DEIR states that
"In addition, operation of limited-stay.....vessels to stay in the marina for up to 30 days. ...the marina would not include maintenance areas, vehicle boat wash areas, or fueling". How, then will these boats dispose of the waste accumulated over the course of their stay? This is indeed a hazardous consequence of the construction of this project

Cumulative (pg 5.6-8)-The DEIR states that "Impacts associated with project demolition....project could contribute to significant cumulative hazard.....related to asbestos and lead-based paint". Will they not be required to hire specialists to remove asbestos and lead paint before general demolition as is the case in all other construction projects?

Impact 5.6-G (pg 5.6-13) states that "the project will not constrict access...the onsite circulation system.." No onsite circulation system is included in the document and therefore, cannot be evaluated. Considering the location of the project, it is difficult to imagine that it will not seriously impact traffic on the peninsula, especially traffic trying to leave the area.

5.7 Hydrology and Water Quality

Hydrology/Drainage (pg 5.7-1)
Only 17% of the park will have pervious surfaces. Can this area be increased substantially?

Long-term Operational Impacts (pg 5.7.5)
Can the percentage of pervious surfaces be increased to more than the planned 53%? (Note that 1 quart of spilled oil can pollute up to one million quarts of ocean water). How often will the streets and parking surfaces be swept and cleaned?

Grease – Mitigation Measures (pg 5.7-7)
How will pollutants not easily seen, like oil or grease, be handled?

Page 5.7.11 Project -Specific Analysis (pg 5.7-11,bottom of the second paragraph)
Use California native and California friendly plants for landscape management in the proposed vegetative bioswales and landscape biocells.

Page 5.7-16 third line in first paragraph.
Please define MLLW.

APPENDIX H: DRAINAGE AND WATER QUALITY INFORMATION

Page 4 Landscaped Areas
Please use California native or friendly plants

Page 4. Parking Facilites

Need to use pervious pavers on all open areas to get below 53% coverage up even more
Can this park be LEED certified?

Page 7. Specific Industrials/Commercial Details
Third box down and to the right- How big will the restaurant be?

Page 8
Will the marina have a dock pump-out station, especially for visiting boats?

Page16 Source Controls BMPs N15
Second box from bottom on the right- Shouldn't the streets and parking lots be cleaned once a week and not quarterly as planned?

Page 22 SQDV' Summary
All parking surfaces should be pervious. Can the remainder of the site have a target of more than 50% pervious surfaces?

Page 26
Will there be a wash down facility for small and large sailing boats? How will contaminated waste water from this operation be controlled?

TC-32 Bioretention Table one
This data is based on work done 10-15 years ago. Is more recent data available?

5.8 Land Use and Planning

In the Executive Summary, Impact 5.8-B and in Section 5.8.4 the DEIR states that "the project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the General Plan, Specific Plan, Local Coastal Program or Zoning Ordinance)..."

However, the DEIR states that the project is located within the 35 foot Shoreline Height Limitation Zone addressed under Chapter 4 of the CLUP, a component of the Local Coastal Program. In addition, the DEIR states that the project may require a Use Permit to allow the Community and Sailing buildings to exceed the base height limit of 35 feet and a Modification Permit to allow structures located on the site to exceed the 35 foot height limit per the zoning code.

The language should be revised in the Executive Summary and Section 5.8.4 to reflect these possible measures that could be required, and remove the language stating that "the project would not conflict with any applicable land use plan, policy, or regulation...".

5.10 Public Services

Impact 5.10-D (pg. 5.10-6) deals with beneficial aspects of the proposed project with respect to overall increase in parkland. However, the DEIR does not deal with the negative consequences of elimination of 2 public tennis courts in an area where other public tennis courts are miles away. Elimination of these 2 courts is in direct contradiction to the assertion made on page 1-14 that the "proposed project will include new and expanded versions of all existing recreation facilities now found within the existing site". Is there any evidence to show that these courts are not needed or underutilized?

In addition, the project plan requires demolition of the existing tennis courts and an adjacent Tot Lot, both of which are actively utilized and unique to the adjacent community. Since their loss during to project development phase would negatively affect the community and visiting users, it would be helpful to have a mitigation measure showing that the tennis courts and Tot Lot would be replaced and available prior to demolition of the existing facilities.

5.11 Transportation and Traffic

Page 5.11-1. Section 5.11.2 – First sentence calls for 19th street, but the map on Exhibit 5.11-1 is showing 18th street. Which is correct?

Page 5.11-7. Table 5.11-3: Net new trip number shows 352; however, on page 5.11.8 (at the top) it shows a net increase number of 477. Please explain the difference.

Page 5.11-12. Project – Specific Analysis Section: Primary access to project can't be via 17th street by looking at the map on Exhibit 3-3 Site Plan. What is the intended primary access to the project?

Page 5.11-14. (third and fifth lines from the top)- Take out approximately 127 and approximately 26, but keep the hard 127 and 26 figures to agree with the total 153 parking places listed elsewhere in the DEIR.

General question: Do the current 21 parking spaces remain during the construction and when the project is completed? These spaces are located at the curb and the sand facing the bay, between 18th & 19th Streets ? Who is expected to use these spaces?

While this project looks wonderful from the drawings etc., it is likely that, during the construction phase of the project, the residents, businesses and visitors to the Peninsula will face a lot of congestion. Although the traffic analysis promises "Project impacts on the study intersections as less than significant", this seems too optimistic based on experience. A rigorous traffic management plan with strict

enforcement should be implemented to assure that the traffic analysis is upheld and that construction will be limited to weekdays only during summer and holiday periods.

The project should include provisions for inclusion of a public launch ramp for small shallow boats. Newport Beach is a boating city and not everyone can afford or get access to a mooring or dock space. Day use of a small boat would be desirable for many residents and this would be a logical place for such a small boat launching ramp. Perhaps it could be placed at the end of 18th street where it meets the sand.

7. Other CEQA Considerations

Significant data concerning cumulative impacts are missing, and thus revisions/amendments to the DEIR are required. The DEIR states that

> "Cumulative impacts are defined as impacts created as a result of the combination of the project evaluated in the EIR together with other projects causing related impacts. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects." (*See* 4.2 Related Projects on page 4-1)

Pursuant to CEQA guidelines, the DEIR included a list of related projects obtained from the City of Newport Beach, dated September 2008 (*See* Table 4-1, page 4-5).

The Table of related projects fails to include three large current and probable projects: *Sunset Ridge*, *Aerie*, and *Banning Ranch*. All such projects are in the immediate area. In fact, they are closer to the proposed Marina Park development than are several of the projects in the City's list.

Thus, the cumulative impact analyses in this EIR lack crucial data. The analyses are dangerously inaccurate without such data. The EIR should be amended to include accurate analyses that consider these missing related projects. This *should be a concern for the accuracy of all impacts of the Marina Park project.*

More data/information is needed concerning the environmental impacts of the project alternatives. Though CEQA guidelines do not require a DEIR's discussion of project alternatives to be as extensive as the analyses for the proposed project, the sparse discussion of the "Reduced Marina Alternative" provides no meaningful data for comparison and consideration. (*See* 6.3 "Reduced Marina Alternative," page 6-3).

SECTION 2: EXECUTIVE SUMMARY

2.1 - Proposed Project

The Marina Park project site is located in the City of Newport Beach, Orange County, California. Specifically, the project site is located on the Balboa Peninsula, along Balboa Boulevard, south of a public beach and the Newport Bay, west of 15th Street, and east of 18th Street.

The proposed project (Marina Park) includes the Multi-Purpose Building at the Balboa Center Complex, Sailing Program Building at the Balboa Center Complex, the Girl Scout House, marina services building, parking areas, park, beach, and a marina basin. The Balboa Center Complex will include a cafe, classrooms, and supporting offices. The project will provide a "Window on the Bay" from Balboa Boulevard.

The public park will provide for passive and active areas. The passive areas include an open lawn area and a water feature. The active areas will include a children's play area and basketball courts. The public short-term visiting vessel marina is proposed to accommodate visiting vessels for up to 30 days. Utility hook-ups are proposed to be available for the marina. Bathrooms and laundry areas are proposed adjacent to the marina. The Balboa/Sailing Center will include rooms for educational classes as well as community events. The Balboa/Sailing center will have a cafe situated on the second story and will include areas for sailing classes. There are two tennis courts proposed on the eastern portion of the site adjacent to 15th Street. In addition, an existing bathroom on the public beach adjacent to 19th Street is proposed to be reconstructed.

Primary vehicular access to the project will be via West Balboa Boulevard at 16th Street and secondary access will be via a controlled exit/entrance off of 15th Street. Public access to the beach will be provided by walkways within the proposed parks as well as an access provided along the western side of the proposed marina. Furthermore, 18th and 19th streets will still provide access to the public beach.

2.2 - Areas of Controversy/Issues To Be Resolved

There are no areas of controversy or issues to be resolved related to the proposed project.

2.3 - Summary of Project Impacts

2.3.1 - Significant Unavoidable Adverse Environmental Effects

There are no significant unavoidable adverse environmental effects that will occur as a result of implementing the proposed project.

2.3.2 - Summary of Significant Environmental Effects That Can Be Mitigated To Less Than Significant

The following significant environmental effect can be mitigated to a less than significant impact:

2.4 - Summary of Alternatives

In accordance with Section 15126(d) of the CEQA Guidelines, Section 6.0 of this EIR includes a comparative evaluation of the proposed project with alternatives to the project. Additionally, the alternatives are discussed in terms of achieving the project objectives. This EIR includes an evaluation of the following alternatives to the proposed project:

- No Project/No Development Alternative
- Reduced Marina Alternative
- No Marina Alternative

This section includes a discussion of the Environmentally Superior Alternative. The Environmentally Superior Alternative is the No Project Alternative. However, this alternative fails to meet any of the project objectives. Based on the evaluation in Section 6, the Environmentally Superior Alternative is the No Marina Alternative.

2.5 - Mitigation and Monitoring Program

CEQA requires agencies to set up monitoring programs for the purpose of ensuring compliance with the mitigation measures adopted as conditions of approval in order to mitigate or avoid significant environmental effects as identified in the EIR. A mitigation monitoring program, incorporating the mitigation measures set forth in this document, will be adopted at the time of certification of the EIR.

2.6 - Summary of Significant Environmental Impacts and Mitigation Measures

Section 5.0, Existing Conditions, Thresholds of Significance, Project Impacts, Cumulative Impacts, Mitigation Measures, and Level of Significance after Mitigation, of this EIR describes in detail the environmental impacts that will result from the implementation of the proposed project. Table 2-1, Executive Summary, summarizes the impacts of the proposed project and mitigation measures for those impacts. Impacts that are noted in the summary as "significant" after mitigation will require the adoption of a statement of overriding considerations, if the project is approved as proposed (CEQA Section 15093).

In this table, impacts of the project are classified as: (1) No Impact (no adverse effect); (2) Less than Significant (adverse effects that are not substantial, according to CEQA); (3) Potentially Significant (potential substantial adverse changes in the environment); (4) Significant (substantial adverse changes in the environment) or (5) Beneficial (beneficial changes in the environment). Mitigation measures are listed, as applicable, for each impact.

Table 2-1: Executive Summary Matrix

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
5.1 - Aesthetics		
Impact 5.1-A: The project would not have a substantial adverse effect on a scenic vista. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.1-B: The project would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic building within a state scenic highway. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.1-C: The project would not substantially degrade the existing visual character or quality of the site and its surroundings. **Project Specific** Less than significant **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact 5.1-D: The project would not create a new source of substantial light or glare that would adversely affect daytime or nighttime views in the area. **Project Specific** Less than significant **Cumulative** Less than significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
5.2 - Air Quality		
Impact 5.2-A: The project could exceed the SCAQMD significance thresholds during the construction phase of the project **Project Specific** Potentially significant impact.	**MM 5.2-A.1.** Construction grading shall be limited to no more than five acres per day. **MM 5.2-A.2.** Project construction shall employ the following methods to reduce fugitive dust emissions: • Exposed soil and sand surfaces shall be watered a minimum of three times daily. • Implement applicable South Coast Air Quality Management District Rule 403 Best Available Control Measures. • Reduce speed on unpaved roads to less than 15 miles per hour. **MM 5.2-A.3.** The tugboat(s) used in sand export activities shall have a propulsion engine built after the year 2000.	Less than significant.
Impact 5.2-B: The project would not exceed the SCAQMD regional significance thresholds during operation. **Project Specific** Less than significant	No mitigation measures are required.	Less than significant.
Impact 5.2-C: The project would not cause or contribute to a carbon monoxide violation from project-related and cumulative traffic during operation. **Project Specific** Less than significant	No mitigation measures are required.	Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact 5.2-D: The project could conflict with or obstruct implementation of the applicable air quality plan. **Project Specific** Potentially significant impact.	Implementation of Mitigation Measures MM 5.2.A-1 and MM 5.2.A-2 is required.	Less than significant.
Impact 5.2-E: The project could violate an air quality standard or contribute substantially to an existing or projected air quality violation. **Project Specific** Potentially significant impact.	Implementation of Mitigation Measures MM 5.2.A-1 and MM 5.2.A-2 is required.	Less than significant.
Impact 5.2-F: The project could result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions, which exceed quantitative thresholds for ozone precursors). **Project Specific** Potentially significant impact.	Implementation of Mitigation Measures MM 5.2.A-1 and MM 5.2.A-2 is required.	Less than significant.
Impact 5.2-G: The project could expose sensitive receptors to substantial pollutant concentrations. **Project Specific** Potentially significant impact.	Implementation of Mitigation Measures MM 5.2.A-1 and MM 5.2.A-2 is required.	Less than significant.
Impact 5.2-H: The project would not create objectionable odors affecting a substantial number of people. **Project Specific** Less than significant	No mitigation measures are required.	Less than significant.
Impact 5.2-I: The project could result in an increase in greenhouse gas emissions that would significantly	**MM 5.2-I.1.** During project construction, construction equipment shall be properly maintained in accordance with manufacturer's	Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
hinder or delay the State's ability to meet the reduction targets contained in AB 32. **Project Specific** Less than significant	specifications; maintenance shall include proper tuning and timing of engines. During maintenance, precautions shall be taken to ensure that fuel is not leaked onto the ground. Equipment maintenance records and equipment design specification data sheets shall be kept on-site during construction and subject to inspection by the SCAQMD. **MM 5.2-I.2.** During project construction, the project proponent shall require all contractors to turn off all construction equipment and delivery vehicles when not in use. **MM 5.2-I.3.** Prior to project construction, the project proponent will provide a traffic control plan that will describe in detail safe detours around the project construction site and provide temporary traffic control (i.e., flag person) during debris transport and other construction-related truck hauling activities. **MM 5.2-I.4.** During project construction, onsite electrical hook ups shall be provided for electric construction tools including saws, drills and compressors, to eliminate the need for diesel powered electric generators. **MM 5.2-I.5.** To reduce waste, the project shall do the following: • Each building shall provide an easily accessible area that serves the entire building and is dedicated to the collection and storage of non-hazardous materials for recycling, including (at a minimum) paper, corrugated cardboard, glass, plastics, and metals. • Recycle and/or salvage at least 50% of non-hazardous construction and demolition debris. Develop and implement a construction waste management plan that, at a minimum, identifies the materials to be diverted from disposal and whether the materials will be sorted on-site or co-mingled. Excavated soil and land-clearing debris do not contribute to this credit. Calculations can be done by weight or volume, but must be consistent throughout. • A minimum of 10 percent of the building materials shall be one of the following: extracted, processed, and manufactured regionally; recycled content; salvaged material; refurbished material; or reused material.	

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	MM 5.2-I.6. To reduce electricity and/or natural gas usage, the project shall do the following: • Install ENERGY STAR alternatives for all lighting and control systems, appliances, and equipment that have ENERGY STAR alternatives. • Use daylight as an integral part of the lighting systems in the buildings. • Optimize energy performance by exceeding Title 24 Energy Efficiency requirements by 21 percent. • For a minimum of 50 percent of the site hardscape (including roads, sidewalks, courtyards, and parking lots), provide either shade, paving materials with a solar reflective index of at least 29, or an open grid system. **MM 5.2-I.7.** The boat docks shall have signs that prohibit engine idling. **MM 5.2-I.8.** Construction plans shall provide preferential parking (such as covered or shaded) for a minimum of two carpool/vanpool vehicles near the entrance of the building(s). Clearly indicate carpool/vanpool spaces with signage approved by the City of Newport Beach. The project shall provide secure bicycle racks and/or storage (within 200 yards of the building entrances. Each building shall also contain a minimum of one shower/changing facility to encourage bicycle usage. **MM 5.2-I.9.** The project shall install pervious concrete in targeted areas as recommended by the International Society of Arboriculture to reduce runoff and help onsite shade trees to develop healthy root systems. **Water Conservation** Water conservation affects air quality through the reduction in air pollutant emissions generated by the transport and treatment of water, and reduces offsite energy consumption. **MM 5.2-I.10.** Project landscaping plans shall require the use of moisture sensors, rain shut-off devices, check valves, and a WaterSmart irrigation controller to the maximum extent feasible. (A moisture-sensing device measures the amount of water in the soil; a	

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	rain-sensing device is a device that automatically shuts off the irrigation system when it rains; an anti-drain valve or check valve is a valve located under a sprinkler head that holds water in a system so it minimizes drainage; an automatic controller is a mechanical or solid-state timer, capable of operating valve stations to set the days and length of time of a water application.) Turf shall be prohibited from all areas except for the lawn/open play area. Drought-resistant plants shall be incorporated into the landscaping plan. Plans shall be subject to approval by the City of Newport Beach. **MM 5.2-I.11.** The project shall utilize water conservation technologies and practices to the maximum extent feasible. Water conservation measures shall include, but are not limited to: • High-efficiency toilets • EPA WaterSense-labeled faucets	
5.3 - Biological Resources		
Impact 5.3-A: The project would have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. **Project Specific** Potentially significant impact. **Cumulative** Potentially significant impact.	**Project Specific** **MM 5.3-A.1.** A construction and post-construction marine biological mitigation monitoring plan will be prepared that will include pre-construction, construction, and post-construction monitoring of the health of marine life at the project site and a final determination of areas impacted by the project. These monitoring programs shall be implemented to ensure that Newport Harbor water quality and marine resources are being protected through the implementation of a Marina Management Plan. This monitoring program shall include monitoring of the marina basin and the channel waters in front of the sand beach prior to, during, and following marina construction for a one year period. If there are no observable, adverse impacts during the first year, then all monitoring will be deemed complete. If adverse impacts are observed, the mitigation measures will be re-evaluated and implemented. Monitoring will occur and cease once there are no observable impacts, up to a period of five years. If it is determined that Newport Harbor water quality or marine life have been degraded as a result of the operation of the marina, then adaptive management techniques shall be implemented to protect the bay's water quality	**Project-specific** Less than significant. **Cumulative** Less than significant

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	and marine resources. **Cumulative** Implementation of Mitigation Measures MM 5.7-A.1, MM 5.7-A.2, MM 5.3-A.1 and MM 5.3-A.2 are required.	
Impact 5.3-B: The project would have a substantial adverse effect on estuarine habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service. **Project Specific** Potentially significant impact. **Cumulative** Significant impact	**Project Specific** **MM 5.3-B.1.** The loss of 0.66 acre of sandy intertidal habitat will be mitigated at an acceptable location within Newport Bay or another southern California embayment based upon a ratio determined by the project proponent and U.S. Army Corps of Engineers (ACOE), National Marine Fisheries Service (NMFS), and the California Department of Fish and Game (CDFG) during the project permitting phase with the knowledge that the project has an overall net gain 0.9 acre of wetland habitat (shallow water habitat). **MM 5.3-B.2.** In accordance with Public Resources Code 21081.6, a mitigation monitoring plan must be developed to monitor the success of the HAPC mitigation area. A five-year monitoring program is recommended. **Cumulative** Implementation of Mitigation Measures MM 5.3-B.1 and MM 5.3-B.2 is required.	**Project-specific** Less than significant. **Cumulative** Less than significant.
Impact 5.3-C: The project would not have a substantial adverse effect on open-bay environment as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** Less than significant **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact 5.3-D. The project would not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors or impede the use of California halibut nursery sites. **Project Specific** Less than significant **Cumulative** No impact.	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant **Cumulative** Less than significant.
Impact 5.3-E: The project could interfere substantially with the movement of any native resident or wildlife species or with established native resident or migratory wildlife corridors. **Project Specific** Potentially significant impact. **Cumulative** Potentially significant impact.	**Project-Specific** **MM 5.3-E.1.** Removal of vegetation or other potential nesting-bird habitat shall be conducted outside of the avian nesting season (February through August). If removal of vegetation occurs during the avian nesting season, a preconstruction nesting bird survey shall be conducted no more than 7 days prior to this activity. If birds are found to be nesting within or near the impact area, a buffer where no construction activities would occur would need to be established by a qualified biologist. This biologist would also determine when the nest is no longer active, at which time construction could resume. **Cumulative** Implementation of Mitigation Measure MM 5.3-E.1 is required.	**Project-Specific** Less than significant, **Cumulative** Less than significant.
Impact 5.3-F: The project would not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
5.4 - Cultural Resources		
Impact 5.4-A: The project would cause a substantial adverse change in the significance of an historical resource as defined in §15064.5. **Project Specific** No impact **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.4-B: The project would cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5. **Project Specific** Potentially significant impact. **Cumulative** Significant impact	**Project Specific** **MM-5.4-B.1.** The City shall provide an opportunity for a Native American representative to monitor excavation and dredging activities. The representative shall be determined by the City based on input from concerned Native American tribes (i.e., Gabrielino, Juaneno, and Tongvas). **MM-5.4-B.2.** The City shall avoid archaeological site, cap or cover the archaeological site with a layer of soil before building on the affected site, or excavate to adequately recover the scientifically consequential information from and about the resource. Implementation of Mitigation Measures MM 5.4-B.1 and MM 5.4-B.2 is required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.4-C: The project would directly or indirectly destroy a unique paleontological resource or site or unique geologic feature. **Project Specific** Potentially significant impact. **Cumulative** Potentially significant impact.	**Project Specific** **MM 5.4-C.1.** A qualified paleontologist shall be retained to observe grading activities and conduct salvage excavation of paleontological resources as necessary. The paleontologist shall be present at the pre-grading conference, shall establish procedures for paleontological resources surveillance, and shall establish, in cooperation with the City, procedures for temporarily halting or redirecting work to permit the sampling, identification and evaluation of the fossils as appropriate. If additional or unexpected paleontological features are discovered, the paleontologist shall report such findings to the City Planning Department. If the paleontological resources are found to be significant, the	**Project Specific** Less than significant. **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	paleontological observer shall determine appropriate actions, in cooperation with the City, for exploration and/or salvage. These actions, as well as final mitigation and disposition of the resources, shall be subject to the approval of the Planning Director. **Cumulative** Implementation of Mitigation Measure MM 5.4-C.1 is required.	
Impact 5.4-D: The project would not disturb any human remains, including those interred outside of formal cemeteries. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** **MM 5.4-D.1.** In accordance with the Public Resources Code §5097.94, if human remains are found, the Orange County Coroner must be notified within 24 hours of the discovery. If the Coroner determines that the remains are not recent, the Coroner will notify the Native American Heritage Commission in Sacramento to determine the most likely descended for the area. The designated Native American representative then determines in consultation with the City the disposition of the human remains. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
5.5 - Geology and Soils		
Impact 5.5-A: The project could expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving seismic-related ground shaking and seismic-related liquefaction, and would not expose people or structures to such potential adverse effects with respect to: i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? (Refer to Division of Mines and Geology Special Publication 42.) **Project Specific** Less than significant	**Project Specific** **MM 5.5-A.1.** Prior to the issuance of a grading permit, a building foundation design to reduce potential liquefaction and settlement impacts shall be submitted to the City of Newport Beach Building Department for review and approval. The foundation design shall be in conformance with the recommendation of the geotechnical report prepared for the project, which recommends a mat foundation and either a deep foundation system such as driven piles or stone columns or soil improvement. The specific foundation design for each proposed structure will require approval by the City of Newport Beach Building Department. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Cumulative No impact. ii) Strong seismic groundshaking. **Project Specific** Less than significant **Cumulative** No impact. iii) Seismic-related ground failure, including liquefaction. **Project Specific** Potentially significant impact. **Cumulative** No impact. iv) Landslides. **Project Specific** No impact **Cumulative** No impact.		
Impact 5.5-B: The project would not result in substantial soil erosion or the loss of topsoil. **Project Specific** Less than significant. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant impact. **Cumulative** No impact.
Impact 5.5-C: The project would be located on a geologic unit or soil that is unstable or that would become unstable as a result of the project and potentially result in an onsite or offsite landslide, lateral spreading, subsidence, liquefaction, or collapse.	**Project Specific** **MM 5.5-C.1** Implementation of Mitigation Measure MM 5.5-A.1 is required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project Specific Potentially significant impact. **Cumulative** No impact.		
Impact 5.5-D: The project would not be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property. **Project Specific** Potentially significant impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.5-E: The project would not have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
5.6 Hazards and Hazardous Materials		
Impact 5.6-A: The project would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials. **Project Specific** Less than Significant. **Cumulative** Less than Significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than Significant. **Cumulative** Less than Significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact 5.6-B: The project would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving a release of the hazardous materials into the environment. **Project Specific** Potentially Significant Impact. **Cumulative** Potentially Significant Impact.	**Project Specific** **MM 5.6-B.1.** Prior to demolition activities, the project proponent shall determine whether asbestos or lead-based paint materials are present within the existing onsite structures. If these materials are present, the project proponent shall properly dispose of these materials in a landfill that accepts asbestos and lead-based paint. **Cumulative** Implementation of Mitigation Measure MM 5.6-B-1 is required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.6-C: The project would not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school. **Project Specific** Less than significant. **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant..
Impact 5.6-D: The project would not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would not create a significant hazard to the public or the environment. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.6-E: For a project located within an airport land-use plan or, where such a plan has not been adopted, within two miles of a public airport or public-	**Project Specific** No mitigation measures are required. **Cumulative**	**Project Specific** No impact. **Cumulative**

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
use airport, the project would not result in a safety hazard for people residing or working in the project area. **Project Specific** No impact. **Cumulative** No impact.	No mitigation measures are required.	No impact.
Impact 5.6-F: For a project within the vicinity of a private airstrip, the project would not result in a safety hazard for people residing or working in the project area. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.6-G: The project would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.6-H: The project would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. **Project Specific** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Cumulative No impact.		
5.7 - Hydrology and Water Quality		
Impact 5.7-A: The project would not violate any water quality standards or waste discharge requirements. **Project Specific** Potentially significant impact **Cumulative** Potentially significant impact.	**Project Specific** **5.7-A.1.** Prior to construction activities, a stormwater pollution prevention plan (SWPPP) for construction activities that describes best management practices (BMPs) to reduce the release of potential pollutants into surface water shall be prepared and approval by the City of Newport Beach. The plan shall also identify how the BMPs will be implemented. The SWPPP shall include, but not be limited to, the following BMPs: • *Dust Control:* Water will be sprayed periodically in newly graded areas to prevent dust from grading activities dust to be blown to adjacent areas. • *Construction Staging:* Specific areas will be delineated for storage of material and equipment, and for equipment maintenance, to contain potential spills. • *Sediment Control:* Sand bags or silt fences will be located along the perimeter of the site. Existing inlets and proposed area drains will be protected against intrusion of sediment. • *Tracking:* Tracking of sand and mud on the local street will be avoided by tire washing and/or road stabilization. Street cleaning will be done if tracking occurs. • *Waste Disposal:* Specific area and/or methods will be selected for waste disposal. Typical construction waste include concrete, concrete washout, mortar, plaster, asphalt, paint, metal, isolation material, plants, wood products and other construction material. Solid waste will be disposed of in approved trash receptacles at specific locations. Washing of concrete trucks will be done in a contained area allowing proper cleanup. Other liquid waste will not be allowed to percolate into the ground. • *Construction dewatering:* Construction dewatering will require approved permits by the California Regional Water Quality Control Board and the City. • *Maintenance:* Maintenance of BMPs will take place before and	**Project Specific** Less than significant. **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	after rainfall events to insure proper operation. • *Training:* The SWPPP will include directions for staff training and checklists for scheduled inspections. • *Construction Vehicles:* Construction vehicles will be inspected daily to ensure there are no leaking fluids. If there are leaking fluids, the construction vehicles will be serviced outside of the project site area. • *Turbidity:* Activities shall not cause turbidity increases in bay waters that exceed: a) 20 percent if background turbidity is between 0 and 5 Nephelometric Turbity Units (NTUs); b) 10 percent if background is between 50 and 100 NTUs; c) 10 percent if background turbidity is greater than 100 NTUs. Monitoring of turbidity in bay water adjacent to boat slip construction will be conducted daily during construction activities that may cause turbidity. If activities exceed the above criteria, construction activities associated with causing turbidity will be discontinued until the above criteria is met. • *Grease:* Construction activities will not cause visible oil, grease, or foam in the work area or in the bay. • *Silt curtains:* Silt curtains will be placed within the bay so that all effluent from dredging activities will be contained within the construction zone. • *Hauling Trucks:* The project construction contractors will ensure that trucks hauling soil material to and from the project site will be covered and will maintain a 2-inch differential between the maximum height of any hauled material and the top pf the haul trailer. Haul truck drivers will water the load prior to leaving the site in order to prevent soil loss during transport. • *Heavy Equipment:* Limit heavy equipment use on the beach to areas away from the high-tide line during construction. • *Hydrogen Sulfide:* Provisions shall be made, as necessary, for the treatment of hydrogen sulfide to comply with water quality standards and to control odors from the dewatering process. • *Dredged Material:* Project operations will require that the scow doors used to release dredged material remain closed until the scows are towed to the disposal site. **5.7-A.2.** Prior to construction of the marina, the City shall include	

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
	mechanical devices within the marina basin design to enhance the movement and mixing of water within the basin. The use of mechanical devices shall meet the EPA guidelines of adequate tidal flushing where flushing reductions range from 70 percent to 90 percent over a 24-hour period. One option could be the use of four oloids (propeller-type devices) that have been modeled. With these devices, the average flushing reductions in 24 hours would reach 80 percent, which meets the EPA guidelines. **Cumulative** Implementation of Mitigation Measures MM 5.7-A.1 and MM 5.7-A.2 is required.	
Impact 5.7-B: The project would not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.7-C: The project would not substantially alter the existing drainage pattern of area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Impact 5.7-D: The project would not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site. **Project Specific** Beneficial impact. **Cumulative** Beneficial impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Beneficial. **Cumulative** Beneficial.
Impact 5.7-E: The project would not create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.7-F: The project would not otherwise substantially degrade water quality. **Project Specific** Potentially significant impact **Cumulative** Potentially significant impact.	**Project Specific** Implementation of Mitigation Measures MM 5.7-A.1 and MM 5.7-A.2 is required. **Cumulative** Implementation of Mitigation Measures MM 5.7-A.1 and MM 5.7-A.2 is required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.7-G: The project would not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.	**Project Specific** No mitigation measures required. **Cumulative** No mitigation measures required.	**Project Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project Specific No impact. **Cumulative** No impact.		
Impact 5.7-H: The project would not place within a 100-year flood hazard area structures which would impede or redirect flood flows. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.7-I: The project would not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.7-J: The project could be subject to Inundation by seiche, tsunami, or mudflow. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant **Cumulative** Less than significant.
5.8 - Land Use and Planning		
Impact 5.8-A: The project would not physically divide an established community.	**Project Specific** No mitigation measures are required.	**Project Specific** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project Specific No impact. **Cumulative** No impact.	**Cumulative** No mitigation measures are required.	**Cumulative** No impact.
Impact 5.8-B: The project would not conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect. **Project Specific** Less than significant. **Cumulative** No impact.	**Project Specific** No mitigation are required. **Cumulative** No mitigation are required.	**Project Specific** No impact. **Cumulative** No impact.
5.9 - Noise		
Impact 5.9-A: The project would not result in exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies. **Project Specific** Less than significant **Cumulative** Less than significant	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** Less than significant impact. **Cumulative** Less than significant impact.
Impact 5.9-B: The project would not result in expose persons to or generation of excessive groundborne vibration or groundborne noise levels. **Project Specific** Less than significant.	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** Less than significant impact. **Cumulative** Less than significant impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Cumulative Less than significant		
Impact 5.9-C: The project would not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. **Project Specific** Less than significant **Cumulative** Less than significant	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** Less than significant impact. **Cumulative** Less than significant impact.
Impact 5.9-D: The project would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. **Project Specific** Potentially Significant Impact **Cumulative** Less than significant	**Project-Specific** **5.9-D.1.** The construction contractor shall ensure that all construction equipment on-site is properly maintained and tuned to minimize noise emissions. **5.9-D.2.** The construction contractor shall ensure that construction equipment is fit with properly operating mufflers, air intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer. **5.9-D.3.** The construction contractor shall locate all stationary noise sources (e.g., generators, compressors, staging areas) as far from residential and recreational receptor locations as is feasible. **5.9-D.4.** Material delivery, soil haul trucks, equipment servicing, and construction activities shall be restricted to the hours set forth in the City of Newport Beach Municipal Code, Section 10.28.040. **Cumulative** No mitigation measures are required.	**Project-Specific** Less than significant impact. **Cumulative** Less than significant impact.
Impact 5.9-E: For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, the project would not expose people residing or working in the project area to excessive noise levels.	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project Specific No impact. **Cumulative** No impact.		
Impact 5.9-F: For a project within the vicinity of a private airstrip, the project would not expose people residing or working in the project area to excessive noise levels. **Project Specific** No impact. **Cumulative** No impact.	**Project-Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project-Specific** No impact. **Cumulative** No impact.
5.10 - Public Services		
Impact 5.10-A: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for fire protection. **Project Specific** Less than significant **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.10-B: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to	**Project Specific** No mitigation is required. **Cumulative** No mitigation is required.	**Project Specific** Less than significant. **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
maintain acceptable service ratios, response times, or other performance objectives for police protection. **Project Specific** Less than significant **Cumulative** Less than significant		
Impact 5.10-C: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for schools. **Project Specific** No impact. **Cumulative** Less than significant.	Project Specific No mitigation measures are required. Cumulative No mitigation measures are required.	**Project Specific** No impact. **Cumulative** Less than significant.
Impact 5.10-D: The project would not result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities or the need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times, or other performance objectives for parks. **Project Specific** Beneficial impact. **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
5.11 - Transportation and Traffic		
Impact 5.11-A: The project would not cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system and that exceeds, either individually or cumulatively, a level-of-service standard for intersections established by the City. **Project Specific** Less than significant. **Cumulative** Less than significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.11-B: The project would not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.11-C: The project would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment). **Project Specific** Less than significant. **Cumulative** Less than significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.11-D: The project would not result in inadequate emergency access.	**Project Specific** No mitigation measures are required.	**Project Specific** No impact.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project Specific No impact. **Cumulative** No impact.	**Cumulative** No mitigation measures are required.	**Cumulative** No impact.
Impact 5.11-E: The project would not result in inadequate parking capacity. **Project Specific** Less than significant **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.11-F: The project would not conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks). **Project Specific** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
5.12 - Utilities and Service Systems		
Impact 5.12-A: The project would not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board. **Project-Specific:** No impact. **Cumulative** No impact.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** No impact. **Cumulative** No impact.
Impact 5.12-B: The project would not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities,	**Project Specific** **5.12-B.1.** If construction vehicles break the existing 16-inch water	**Project Specific** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
the construction of which could cause significant environmental effects. **Project-Specific** Potentially Significant Impact **Cumulative** Less than significant	line, the water line will be replaced. **Cumulative** No mitigation measures are required.	**Cumulative** Less than significant.
Impact 5.12-C: The project would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects. **Project-Specific** Less than significant **Cumulative** less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.12-D: The project would have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed? **Project-Specific** Less than significant **Cumulative** less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.12-E: The project would result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.

Environmental Impact	Mitigation Measures	Level of Significance After Mitigation
Project-Specific Less than significant. **Cumulative** Less than significant.		
Impact 5.12-F: The project would be served by a landfill with sufficient permitted capacity to accommodate the project's solid waste disposal needs. **Project-Specific** Less than significant **Cumulative** Less than significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.12-G: The project would comply with federal, state, and local statutes and regulations related to solid waste. **Project-Specific** No impact. **Cumulative** Less than significant.	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.
Impact 5.12-H: The project would not have a substantial impact on the provision of natural gas and electrical services. **Project-Specific** No impact. **Cumulative** Less than significant	**Project Specific** No mitigation measures are required. **Cumulative** No mitigation measures are required.	**Project Specific** Less than significant. **Cumulative** Less than significant.

Authors: The table of contents below is for yours and editorial use. To refresh, place your cursor in the table of contents area and press F9.

Error! No table of figures entries found.

References:
Please record your references as you draft your section.

Author's Name. Year. Report Title.

Author's Name. Year. Report Title.

Author's Name. Year. Report Title.

Author's Name. Year. Report Title.

General Instruction for Citations and References

MBA uses the author date citation system within the narrative of the text. To make identifying the citation in the references clear, we use a similar format. Each format is described below. If you encounter items other than those listed below, refer to the most current edition of the Chicago Manual of Style (15th edition as of this writing).

Web resources

In the narrative:

(Delano Union School District 2007)

In the references/bibliography:

Website name. Year. The web address you visited. The date you accessed the site. For example:

Delano Union School District. 2008. Website http://www.duesd.org/. Accessed April 23, 2008.

Personal communications

In the narrative:

(Sayers, pers. comm.)

In the references/bibliography:

Contact's last name, first name. Title, firm or company. Personal communication: form of pers comm (e-mail, telephone, fax, etc.). Date of communication. For example:

Sayers, Dorothy. Managing Editor, Bloomsbury Industries. Personal communication: e-mail. April 23, 2007.

Reports

in the narrative:

(A J Environmental, Inc. 2008)

In the references/bibliography:

Firm's name as author; if person, last name, initials only. Year published. Title of Report. Month day published (if known.) For example:

A J Environmental, Inc. 2008. City of Bakersfield Phase I Environmental Site Assessment, Bakersfield OHV Park, Kern County, California, August 16.

Attachment No. 3

Subcommittee Report and Executive Summary on DEIR for AERIE Project

To: James Campbell
Principal Planner, Planning Department
3300 Newport Blvd.
Newport Beach, CA 92658-8915

April 20, 2009

From: Environmental Quality Affairs Citizens Advisory Committee (EQAC)

Subject: Aerie Draft Environmental Impact Report (DEIR) dated March 2009

EQAC is pleased to have this opportunity to comment on the Subject DEIR in the hopes that our comments will lead to the best possible project for the City of Newport Beach, the neighbors and the applicant. Our comments follow in the order of appearance in the DEIR as far as possible.

1.0 Executive Summary

The Construction Management Plan (CMP) is referenced frequently and often cited pertaining to mitigation measure. The note at the bottom of pg. 1-6 which refers to the CMP is confusing. Is the CMP incorporated by reference in the DEIR and is it to be considered part of the DEIR, and therefore binding on the proponent?

MM 4.9-2a (pg 1-13) deals with the problem of boats moored at the site (i.e. proposed dock) during periods of excessive wave-induced motions. It states that the boats "should" be moored elsewhere during this time. Shouldn't it be mandatory to move these boats during periods of dangerous wave motions. Otherwise, adjacent boats and docks and channel safety are at risk.

3.0 Project Description

The project includes removal of existing 4 docks at channel level (25-foot class boats) and expansion to 8 slips plus one side tie-dock which will "accommodate boats up to 100-foot in length". As shown in Exhibit 3-17 (pg. 3-25), the new docks extend considerably farther into the boating channel than the original docks and the provision for 100-foot boat maneuvering in the busy channel seems problematic. (Note that the USCG Cutter Narwhal is 13 feet shorter at 87 feet and employs a crew of ten). The DEIR deals with this potential problem under Harbor and Bay Element HB 9.2 (pg 4.1-11) by stating that this new dock facility will not "adversely affect safe navigation within the harbor". However, no harbor traffic analyses is included to support this assertion. Are such studies or analysis available to assure that channel boating operations and safety are not compromised?

4.0 Environmental Analysis

4.1 Land Use

pg.4.1-8, LU1.1 The modern style of this architecture is out of character for this area, especially as viewed from Carnation Avenue.

pg.4.1-8, LU 1.3 The small beach area at the foot of this project will be hard to see with the construction of a 60' gangplank, a larger dock and the possibility of the mooring of large vessels. This will be a loss of a visual resource from the water.

pg.4.1-9, LU 2.5 Because of the configuration of the new dock, it appears that 100' vessels will be close to encroaching on boating lanes. There may be a need to limit the size of vessels moored on channel side of the dock (see previous discussion under Project Description).

pg.4.1-9,LU 3.2, Who will pay to underground existing utility lines?

pg.4.1-12, CE 7.1.8, Is there any way to ensure that the residents of Aerie will use the provided garages rather than the street? Using an elevator to park for a short time seems unrealistic.

pg. 4.1-13, NR 3.11, What will be the effect of long term runoff on the harbor?

pg. 4.1-14, NR 11.3, How will the loss of eelgrass be mitigated? Specifics?

pg. 4.1-19, 2.2.1-2 Diagram of planned improvement to catch basin?

pg. 4.1-19, 2.7.1, It would be helpful to have a larger diagram of planned subterranean land encroachments.

pg. 4.1-42, 3.20, How will the sand dollar colony be protected during the construction of the dock? Specifics?

4.3 Air Quality 1

The document describes (in extreme detail) the existing conditions and State regulations concerning the construction phase. There is no real schedule to facilitate evaluation of the ability of the construction crews to comply with these standards.

As the project is designed using "green" architectural criteria, attention to details that enhance "green" construction are included in the plan. For example, on pg 4.3-13 the DEIR states that". dust will be minimized using water as control...During grading activities, any exposed soil areas shall be watered at least 4 times a day..." and that "All diesel-powered machinery exceeding 100 horsepower...equipped with soot traps,"

The project, as analyzed using SCAQMD parameters, seems to fall below the threshold of significant impacts.

4.3-17/18 describes active and passive strategies the "green" architecture plan utilizes to minimize the projects' footprint on the environment.

The proponents are commended for proposing an extensive list of appropriate Air Quality mitigation measures (dust control, truck staging management, etc.) that will assure maximum compliance.

4.4 Noise

What types of noise restrictions will be placed on residents within the completed condominium complex? For example, portable balcony Jacuzzi's have appeared recently that are not controlled by existing noise codes. These have minimal plumbing and electrical needs and represent noise pollution that is currently not covered by noise codes. The proponent should take steps to limit these and similar internal noise sources to eliminate future operational controversy within the project or adjacent to it.

Pg 4.4-24: Vibration from construction will be "felt" for a total of 25 work days during the project. This is an unavoidable negative impact and should be so noted.

A comment about the DEIR's implied appropriateness of a 65 dBA criterion for residential noise:

Note, Table 4.4-1, shows noise levels of 65-70 dBA CNEL are considered inappropriate (or, "C = normally incompatible") for all residential categories shown. This makes excellent sense and is consistent with the literature which clearly states, for example, that "... sound pressure levels exceeding 55 dB(A) ... are disturbing to sleep ..." [1] and, noise from, for example, highway traffic -- typically 70 dB(A) -- is considered "intrusive".

Despite the data shown in Table 4.4-1, this DEIR sets as an acceptable criterion for residential noise at 65 dBA CNEL (as stated throughout the document). Levels of 65 dB(A) are at the threshold for noise classified as both "normally compatible" and "normally incompatible" for residential categories, and exceed the every category of allowable residential noise level standards for the city as shown in Table 4.4-2.

Section 9.3.10 describes that none of the increases from noise impacts due to project traffic will exceed 65 dBA CNEL, and the DEIR "...anticipates no significant long-term cumulative noise impacts ..." due to the project. However, there should be a better characterization of how the current ranges of average daytime noise levels in the area (see Table 4.4-3).

Section 9.3.10 concludes: "The greatest increase in ambient noise would occur during the construction phases ..." and that these will "... result in significant impacts in the

neighborhood." They then conclude that vehicle-trip noises associated with the completed project are projected to be minimal and not significant contributors to long-term traffic noise
(adding only an estimated 47 vehicles per day onto the circulation network). This conclusion seems unrealistically optimistic, and is based on the report's questionable acceptance of a 65dBA standard for appropriate residential noise levels.

In light of the especially liberal 65dBA criterion discussed above, and the existing ambient noise levels reported, we feel the project's long-term noise impacts are better characterized as unmitigated negative impacts of the project, since the net result will be to substantially raise the area's average daytime noise levels by adding the sort of traffic noise known to be especially disruptive and resulting in stronger negative reactions due to its vibration characteristics and low frequency components. For additional technical data, refer to "Guidelines for Community Noise" The World Health Organization - expert taskforce meeting held in London, United Kingdom, in April 1999. It bases on the document entitled "Community Noise" that was prepared for the World Health Organization and published in 1995 by the Stockholm University and Karolinska Institute. Available at http://www.who.int/docstore/peh/noise/guidelines2.html.

In general, Newport Beach residents would prefer to see reductions in ambient noise levels whenever possible. This project sets a bad precedent, taking the opposite view and inflating that which is considered an acceptable standard, even beyond what is recommend by City standards. The impacts of Aerie should be stated as unmitigated negative impacts so as to avoid a tendency to inflate allowed noise impacts of future projects.

4.5 Aesthetics

The proposed project will result in a major addition of reflective glass to the bluff compared with what is there now (see Exhibits 4.5-4 and 4.5-16). Under Light and Glare (pg. 4,5-29) the DEIR states that selection of appropriate building materials results in "no significant glare impact from building finish materials" and that "no mitigation measure are required". However, it is well known that at sunset this area "lights up" with window reflections. Has the proponent considered a mitigation measure to minimize this effect?

4.6 Drainage and Hydrology

Page 4.6-6 4.6.4.2 Long-Term Operational Impacts, First Paragraph

Impervious surfaces will go from 22% to 28%. Can these surfaces be improved to meet the previous 22% or even better?

Is the added swimming pool capable to treat all the ingredients from a storm flow?

Page 4.6-8 4.6.4.2 Long-Term Operational Impacts, Third Paragraph

What is the storm design capacity? Shouldn't that number be in this section as well as having input from the City Engineer?

Page 4.6-9 4.6.4.2 Routine Non-Structural BMPs N1

What is sanitary sewage outflow?

"dumping and dripping oil" added to line 3.

Please be careful and adamant about oil or other oil-based products, as 1 quart of oil will pollute 1 million gallons of ocean water.

Page 4.6-9 4.6.4.2 Routine Non-Structural BMPs N11

As well as being reported there should be fines as a slap on the wrist will not make people change, but their money would make them look twice.

Page 4.6-10 4.6.4.2 Routine Structural BMPs Third Point

Can the landscaper use California natives or Caliornia friendly plants and vegetation?

Page 4.6-10 4.6.4.2 Routine Structural BMPs Second last line of the page:

What are "Abtech Smart Sponge Plus" drains?

Can the landscaper use California natives or California friendly plants and vegetation?

Page 4.6-11 4.6.4.2 Routine Structural BMPs Fourth line of the page:

How will pool water be safely disposed of properly?

Page 4.6-12 4.6.5 Mitigation Measures Water Quality

What is "maximum extent practicable"?

4.8 Public Health and Safety

The two primary factors involving public health and safety that are addressed in this section are asbestos containing materials (ACM) and lead based paints (LBP). Both ACM and LBP are present in the two structures that will be demolished, the 60 year old apartment house and the 54-year-old house. It is clear that the appropriate steps will be taken by hazardous removal specialists to assure that there is no health risk in the removal of these two hazards prior to demolition. Demolition is expected to take only 6 days. During the construction phase, a much longer period, there will be a presence of oil, gas, tar and some construction materials that are hazardous. Measures are included in the DEIR to mitigate against any health threats from these materials, as well. The DEIR enumerates the government requirements and regulations that will be enforced to assure compliance, with no significant adverse effects once the measures are implemented.

Not mentioned in this section is the fugitive dust that will result during the ensuing excavation and grading portion of the project. This phase, scheduled to take over 5 months, presents a potential health hazard to the immediate neighborhood. There are a number of steps planned to mitigate this risk, including watering the soil several times daily. I am less comfortable with this longer time exposure (than the ACM and LBP) could pose increased risks for the neighbors and construction crews. Other steps should also be considered and required, such as tarps for covering the dirt and assurance of covered hauling trucks for any portion of the site that will be hauled away. Additionally, since the scope of the project is so large, the estimated time for the completion of the project is nearly three years (32 months). This is a very long time for the neighbors to put up with all the dirt, noise and other anxieties that accompany living in the middle of such a large and long-term project. The construction people should be regularly mindful of their impact on the neighbors. Regular updates, warnings and thanks should be a required part of their work, communicated to these residents.

4.9 Soils and Geology

Page 4.9.2, Paragraph 2: This section says that, "The subject property is located within a seismically active area." Then at the end of this paragraph it ends up saying, "the faults identified on the site are not considered "active" ". For practical purposes, common sense says that, with all the faults in and around Newport, one would expect a quake in the next 75 years, which is the expected life of the project. Do current Building Codes and Earthquake Building Requirements adequately deal with this eventuality?

Page 4.9-11, Paragraph 3: Notes that the City of NB says, "an annual total of approx. 5,000 cubic yards of sands are transported by waves into cove beaches in the area, resulting in a need for dredging from some dock facilities in order to maintain an adequate depth for boat berthing." The description of the proposed new docks includes provisions for boats up to 100 feet in length resting out in the boating channel. Depending on the depth of the boats at the docks and the amount of sand, etc. accumulated there, who pays to have that area of sand removed if the channel gets shallow faster than what the City's plans are to dredge the Bay? .

CHAPTER 1.0
EXECUTIVE SUMMARY

1.1 Description of the Proposed Project

1.1.1 Project Location

The City of Newport Beach is an urbanized coastal community located in western Orange County. Newport Beach is bordered by the Cities of Irvine on the north and northeast and by Costa Mesa on the north and northwest. Crystal Cove State Park, in unincorporated Orange County, is located southeast of the City's corporate boundaries. On the west, the incorporated limits of the City extend to the Santa Ana River; the City of Huntington Beach is located west of the Santa Ana River. The Pacific Ocean comprises the southern boundary of the City.

The properties are located at 201 – 207 Carnation Avenue (west side of Carnation Avenue at the intersection of Ocean Boulevard) and 101 Bayside Place in the City of Newport Beach. The subject property currently consists of two parcels and a small portion of a third parcel (584 square feet), encompassing a total area of 1.4 acres, which is currently occupied by an existing 14-unit apartment building and single-family residence.

1.1.2 Project Description

The project applicant, Advanced Real Estate Services, Inc., is proposing to develop the 1.4-acre site with an 8-unit condominium development. Project implementation includes the demolition of the residential structures (i.e., 14-unit apartment building and one single-family residence) that currently occupy the site. The total gross floor area will encompass 61,709 square feet and includes living floor area (29,426 square feet), common recreational areas (2,987 square feet), storage areas (5,943 square feet), parking (13,234 square feet), and circulation and mechanical areas (10,119 square feet). In addition, the existing docks will be replaced with an eight (8) slip dock and one (1) guest side tie dock. The new docks will consist of timber construction and 19 new concrete guide piles, and the existing 20-foot long gangway will be replaced by a 44-foot gangway. The new dock layout is located between the existing pierhead line and natural rock outcroppings, property line to the north and south, and an existing eelgrass bed to the south.

The proposed Aerie project has been designed utilizing "green" architecture design criteria. As a result, the project will be constructed with both active and passive sustainable design elements (e.g., natural ventilation system, gray water retention for property irrigation, solar domestic hot water and pool hearing, solar photovoltaic arrays to generate electricity, etc.) that enhance the project design, reduce the amount of energy utilized, and minimize the project footprint on the environment.

In addition, a Construction Management Plan (CMP) has been prepared as a component of the proposed project. The CMP addresses all aspects of the construction phase (e.g., phasing, schedule, construction equipment, and the construction process). In addition, the CMP also addresses parking management (e.g., off-site and short-term parking, staging, etc.), traffic control (e.g., haul routes and delivery requirements), safety and security (e.g., pedestrian protection, fencing, and safety and security), air quality control and noise suppression measures (e.g., dust control, noise control vibration monitoring); and environmental compliance/protection (e.g., erosion and sediment control and beach protection, water quality control and environmental protection measures).

The following discretionary approvals are requested or required by the City in order to implement the project:

- General Plan Amendment (GP2005-006)
- Coastal Land Use Plan Amendment (LC2005-002)
- Zone Change (CA2005-009)
- Tract Map (NT2005-004/TT16882)
- Modification Permit (MD2005-087)
- Coastal Residential Development Permit (CR2005-002)

1.1.3 Project Phasing

The applicant is proposing to construct the entire project in four construction phases over a period of 32 months.

1.1.4 Project Objectives

Implementation of the proposed project will achieve the following intended specific objectives, which have been identified by the project applicant.

1. To develop a state-of-the-art multi-family residential condominium project, with a sufficient number and size of units to justify (a) the incorporation of advanced design which reflects the architectural diversity of the community and adds distinction to the harbor and the neighborhood, (b) the use of energy-conserving technology described in Project Objective 3, and (c) the inclusion of common amenities reflected in Project Objective 4.

2. To enhance the aesthetic quality of the neighborhood by replacing a deteriorating 60-year old structure with a high-quality residential project utilizing unique modern design principles and featuring (a) the elimination of conventional garage doors for all units, (b) the concealing of all parking from street view, (c) significant landscape and streetscape enhancements, (d) the removal of two existing power poles on Carnation Avenue, as well as the associated overhead wires, and (e) replacing these features by undergrounding the new wiring.

3. To replace an energy *inefficient* structure typical of mid-20th Century development with an advanced, highly efficient structure designed to incorporate energy-saving, sustainable, and environmentally sensitive technology, construction techniques, water quality treatment elements, and other features designed to conserve energy and/or improve the existing environment to a greater degree than required by current applicable regulations.

4. To provide amenities deemed important by the developer to potential purchasers of condominium units, including a dock for each residence, ample storage space, and common recreational and health facilities, such as a swimming pool and fitness center.

5. To enhance public access to the coast by increasing the number of available public street parking spaces through the use of new technology and creative design which will limit project entry and exit points, thereby minimizing curb cuts and exceeding on-site the number of resident and guest parking required for the project.

6. To protect and enhance scenic views *to* the harbor and the ocean from designated public vantage points in the immediate neighborhood by (a) significantly expanding the existing public view corridor at the southern end of project site, (b) creating a new public view corridor at the northern end of the project site, (c) removing two existing power poles on Carnation Avenue, as well as the associated overhead wires, all of which presently obstruct the view from certain perspectives, (d) replacing the existing poles and overhead wiring by undergrounding the new wiring, and (e) providing a public bench and drinking fountain at the corner of Carnation Avenue and Ocean Boulevard to enhance the public viewing experience.

7. To enhance public views of the project site *from* the harbor by (a) maintaining all visible development above the predominant line of existing development (PLOED), (b) incorporating into the project the property at 207 Carnation Avenue, which presently is within the Categorical Exclusion Zone and, if not part of the project, would not be subject to the PLOED, (c) replacing the existing outdated apartment building with modern, organic architecture with articulated facades to conform to the topography of the bluff, and (d) removing the unsightly cement and pipes and the non-native vegetation on the bluff face and replacing it with an extensive planting of native vegetation.

8. To minimize encroachment into private views by maintaining a maximum building height on average four feet below the zoning district's development standards.

1.2 Alternatives

1.2.1 Summary of Alternatives

CEQA requires that an EIR describe a range of reasonable alternatives to the project, or to the location of the project, which could feasibly attain most of the basic objectives of the project, but would avoid or substantially lessen any of the significant effects of the project, and to evaluate the comparative merits of the alternatives. Chapter 10 sets forth potential alternatives to the proposed project and evaluates them as required by CEQA. Several alternative development scenarios have been identified as a means of reducing potentially significant impacts associated with implementation of the proposed project. These alternatives include:

- No Project/No Development
- Alternative Site
- Reduced Intensity/3 Single-Family Residences
- Reduced Intensity/5 Multiple-Family Residential Project
- Existing Zoning/8-Unit Multiple-Family Residential Project with Reduced Grading

1.2.2 Environmentally Superior Alternative

Chapter 10 describes the criteria that were used to select those alternatives for detailed analysis and to screen others from further detailed consideration. CEQA also requires that the EIR identify the environmentally superior alternative among all of the alternatives considered, including the proposed project. The No Project/No Development alternative would avoid the two potentially significant project-related impacts (construction noise and paleontology) identified in Chapter 4.0. The remaining alternatives would reduce to some extent, the degree of traffic and air quality impacts, which were determined to be less than significant for the proposed project. In addition, although the duration of construction noise

would be significantly reduced as a result of reduced grading in the 3, 5, and 8-unit alternatives, the construction noise associated with each alternative could not be mitigated and would remain significant and unavoidable. Furthermore, with the possible exception of Alternative 3A, the other alternatives would not result in the benefits derived form project implementation (e.g., underground overhead power poles creating an improved aesthetic character on Carnation Avenue and upsizing of the existing deficient catch basin). Finally, all or portions of several project objectives would not be realized, including state-of-the-art energy saving conservation features and the provision of recreation amenities. Based on the potential environmental effects and the ability to meet the project objectives, existing Zoning/8-Unit Multiple Family Alternative A is considered the "environmentally superior" alternative of the alternatives considered as a result of improvements that ameliorate existing undesirable environmental conditions (e.g., provision of adequate capacity in the existing deficient storm drain, removal of the unsightly overhead utility poles, etc.). Although Alternative B further reduces grading and, to some degree, the duration of construction noise, the potential impact would remain significant and unavoidable as with all of the alternatives and project objectives would not be achieved to the same degree as compared to Alternative A. Furthermore, none of the improvements to drainage, aesthetics and/or energy conservation systems would be included in the single-family (i.e., 3 dwelling units), or 5-unt and 8-unit Alternative B design alternatives; thus, the environmental benefits would not accrue to those alternatives.

1.3 Areas of Controversy

The areas of controversy identified during the scoping process and at public hearings conducted prior to the preparation of the EIR, are addressed in the EIR and include:

- Predominant Line of Existing Development
- Neighborhood Compatibility
- Site Geology
- Docks
- Pubic Views
- Access to Parking
- Bluff Vegetation
- Noise
- Traffic

1.4 Issues to be Resolved

The environmental analysis presented in Chapter 4.0 and Chapter 5.0 of the Draft EIR indicate that several potential impacts were identified; however, in those instances, specific mitigation measures have been included to reduce the potential significant adverse effects to a less than significant level. All of the potentially significant impacts except for noise will be reduced to a less than significant level with the implementation of the mitigation measures prescribed in Chapter 4.0 of this document. In addition, several recommendations have also been included in this document to address other impacts resulting from project implementation, which have been determined to be less than significant, to eliminate or further reduce those adverse effects. Because construction noise impacts cannot be reduced to a less than significant level, the Newport Beach City Council must adopt a statement of overriding considerations prior to taking final action to approve the proposed Aerie project.

1.5 Impact Summary Table

Table 1-1 summarizes the significant adverse impacts of the proposed project. The table also provides a summary of the potential impacts found to be less than significant, and which do not require mitigation. Each environmental resource area covered in the main text is summarized. Also, impacts found to be significant are listed along with the proposed mitigation measures. The residual impact after application of mitigation measures is also indicated for each significant impact.

Table 1-1
Summary of Impacts, Mitigation Measures and Level of Significance After Mitigation

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
Land Use and Planning		
The proposed project, which includes the construction of an eight-unit condominium development and the replacement of the existing private marina with an eight-slip dock that is consistent with the Land Use Element and Coastal Land Use Plan of the Newport Beach General Plan and with the long-range goals, policies and objectives adopted by the City in the General Plan Update. The proposed project is also compatible with the existing land uses in the area.	No significant long-term land use impacts are anticipated and no mitigation measures are required.	Less than Significant
Traffic and Circulation		
	SC 4.2-1 On-site parking shall comply with the Newport Beach Parking Code requirements. SC 4.2-2 Sight distance at the project accesses shall comply with City of Newport Beach standards. SC 4.2-3 Vehicular sight distance of vehicles entering and exiting the site must be found consistent at the time of building permit issuance with Standard Drawing 110-L prescribed in the Public Works Design Manual to ensure safe vehicular access.	
Project implementation will result in the generation of construction-related traffic associated with grading, site preparation and construction. However, the heavy truck traffic would be not exceed four trucks per hour and not significant impacts would occur. Further, no significant long term traffic impacts will occur because the proposed project will not generate a significant number of daily and peak hour trips.	The following project features are prescribed in the CMP and will be implemented to ensure that short-term construction traffic impacts are avoided. • The project's haul route shall follow the route depicted in the CMP. Specifically, dump trucks, concrete mixers, deliveries, and shuttles for off-site parking will access the site via East	Less than Significant

[1]A Construction Management Plan (CMP) has been prepared, the components of which are considered by this EIR to be included within the Project Description. Certain CMP components, though listed under this heading for informational purposes, do not constitute mitigation measures to reduce or eliminate significant effects identified by this EIR. Rather, those CMP components represent the Applicant's response to CEQA's encouragement to incorporate changes or alterations into the project as part of the Project Description to avoid or reduce significant effects on the environment. Because the evaluation of environmental impacts is predicated upon compliance with the CMP, those CMP components that resulted in avoidance of significant environmental impacts, though discussed in the sections of this EIR evaluating potential environmental effects, are not listed below. The City may, at its option, impose a condition of approval on the project requiring compliance with the CMP, but such a condition should not be construed as a measure to mitigate the significant impacts identified by this EIR.

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	Coast Highway and travel south on Marguerite Avenue, west on Seaview Avenue, and south on Carnation Avenue to the site. The trucks and construction vehicles will exit by driving east on Ocean Boulevard, north on Marguerite Avenue, and back to East Coast Highway. • Dirt will be hauled to Olinda Alpha Sanitary Landfill in the City of Brea (or a closer site/location if available at the time grading occurs) . Dump trucks leaving from East Coast Highway will travel north on MacArthur Boulevard to SR-73, and continuing northbound on SR-55 to the I-5 northbound and to SR-57 northbound. Grading and dirt hauling shall occur only between Labor Day and Memorial Day. • All deliveries will use the designated haul route once they enter the neighborhood starting from Marguerite Avenue. • The contractor will also request an encroachment permit for a temporary staging area during construction , as described and illustrated in the CMP. Loading and unloading of all construction materials/equipment and/or construction vehicles will take place on-site or within the staging area. Loading and unloading will be managed by the construction valet team and will be overseen by the contractor. Dump trucks, cement trucks, etc., will arrive at the site with no greater frequency than the discharge rate by the contractor so that no more than one truck is on-site at one time and that trucks will not queue on Carnation Avenue. Once the delivery is complete, the trucks will exit the project area via the haul route identified above. All trucks (except cement trucks) will be required to shut off their engines during the loading/off-loading process. • To prevent obstruction of through traffic lanes adjacent to the site, a flag person will be retained to maintain safety adjacent to the existing roadways. • Traffic control will be coordinated with the Police Department and Public Works Department, Traffic and Development Services Division, so that street traffic is not obstructed.	
It is estimated that an average of 25 workers will be at the job site each day during Phase I and 45 workers each day during Phase II. During Phases III and IV, when work will mostly occur indoors, an average of 60 to 80 workers would be expected to be on-site on a	In order to ensure that adequate employee parking is provided to workers during each phase of construction, the CMP includes a detailed parking management plan. This plan mandates the following:	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
daily basis.	• Construction workers are prohibited from parking on Carnation Avenue and Ocean Boulevard (or any residential street in the neighborhood). In stead, the applicant will secure one or more binding off-site parking agreements to accommodate the varying number of workers needed for each construction phase. The off-site parking location(s) will be located within a five-mile radius of the site. The off-site parking agreement shall be presented to the City prior to the issuance of permits required for the phase of construction that will require the off-site parking. The agreement will also ensure that one of the off-site parking locations will: (1) commit a sufficient number of parking spaces to Aerie construction workers during the relevant term, and (2) the off-site location possesses the proper permits and authority to rent the subject spaces. • Shuttles will transfer construction workers from the remote parking locations to the project site. Specifically, two 10-passenger shuttle vans will run up to eight trips each morning and evening and up to five trips at lunch, assuming that some workers will remain at the jobsite during lunch. Carpooling among construction workers will also be encouraged throughout the duration of the construction phases. • Once vehicular elevators are installed, workers will be permitted to park in the completed on-site garages. It is anticipated that approximately 31 cars will be able to park on-site once the parking garage is completed. Personnel will be provided to assist in parking the construction workers on-site. • As previously indicated, construction workers will be prohibited from parking on Carnation Avenue and Ocean Boulevard. Compliance with this prohibition will be monitored daily by the construction valet and flagmen team. However, this prohibition shall not apply to short-term visitors to the site such as City inspectors, City staff, architects, and consultants. Carpooling will also be encouraged among professionals.	
Air Quality		
	SC 4.3-1 Adherence to SCAQMD Rule 403, which sets requirements for dust control associated with grading and	

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	construction activities. SC 4.3-2 Adherence to SCAQMD Rules 431.1 and 431.2, which require the use of low sulfur fuel for stationary construction equipment. SC 4.3-3 Adherence to SCAQMD Rule 1108, which sets limitations on ROG content in asphalt. SC 4.3-4 Adherence to SCAQMD Rule 1113, which sets limitations on ROG content in architectural coatings. SC 4.3-5 Adherence to Title 24 energy-efficient design requirements as well as the provision of window glazing, wall insulation, and efficient ventilation methods in accordance with the requirements of the Uniform Building Code.	
Project implementation would not result in an exceedance in the any of the SCAQMD significance thresholds during either the demolition, site preparation/construction, or operation phases.	Implementation of the project design features prescribed in the CMP and reflected below will ensure that potentially significant air quality impacts are avoided. These measures include: • The project shall comply with the Fugitive Dust Emission and Control Plan approved by the South Coast Air Quality Management District (under Rule 403). • Dust will be minimized using water as control. Site and debris watering shall be performed a minimum of three times daily during demolition activities. During grading activities, any exposed soil areas shall be watered at least four times per day. Stockpiles of crushed cement, debris, dirt or other dusty materials shall be covered or watered three times daily. In addition, trucks carrying soil and debris shall be wetted or covered prior to leaving the site. On windy days, or when fugitive dust can be observed leaving the site, additional applications of water shall be applied to maintain a minimum 12 percent moisture content as defined by SCAQMD Rule 403. Soil disturbance shall be terminated whenever wind conditions exceed 325 miles per hour. • All diesel-powered machinery exceeding 100 horsepower shall be equipped with soot traps, unless the contractor demonstrates to the satisfaction of the City Building Official that it is infeasible.	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
Noise		
	SC 4.4-1 In accordance with Section 10.28.040 of the Newport Beach Municipal Code Section 10.28.040 (Construction Activity – Noise Regulations), noise-generating construction and/or maintenance activities may be permitted only between the hours of 7:00 a.m. and 6:30 p.m. on weekdays and 8:00 a.m. to 6.00 p.m. on Saturdays. No noise-generating construction activities may occur at any time on Sundays or on federal holidays. These days and hours shall also apply any servicing of equipment and to the delivery of materials to or from the site.	
Noise levels associated with construction equipment will exceed - dBA CNEL during the construction phase anticipated for the proposed project. These noise levels, which would occur over an extended period of time, will exceed acceptable noise levels for sensitive uses (i.e., single-family residential) suggested for permanent stationary sources.	MM 4.4-1a All construction equipment, stationary and mobile, shall be equipped with properly operating and maintained muffling devices, intake silencers, and engine shrouds no less effective than as originally equipped by the manufacturer. MM 4.4-1b The construction contractor shall properly maintain and tune all construction equipment to minimize noise emissions. MM 4.4-1c The construction contractor shall locate all stationary noise sources (e.g., generators, compressors, staging areas) as far from residential receptor locations as feasible. MM 4.4-1d The construction contractor shall post a contact name and telephone number of the owner's authorized representative on-site. MM 4.4-1e The construction contractor shall install temporary sound blankets or plywood panels with a minimum Sound Transmission Class rating of 32 or higher and a density of 1.5 pounds per square foot or greater (e.g., SoundSeal BBC-13-2 or equivalent) along the entire outer perimeter of the construction area. The temporary sound blankets or plywood panels shall have a minimum height of six feet. If plywood panels are selected, they must have a minimum density of four pounds per square foot and have no perforations	Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	or gaps between the panels. MM 4.4-1f The construction contractor shall select quieter tools or construction methods whenever feasible. Examples of this include the use of plasma cutters, which produce less noise than power saws with abrasive blades and ordering precut materials to specifications to avoid on-site cutting. MM 4.4-1g The construction contractor shall maximize the use of enclosures as feasible. This includes four-sided or full enclosures with a top for compressors and other stationary machinery. This also includes locating activities, such as metal stud and rebar cutting, within constructed walled structures to minimize noise propagation.	
Potential short-term impacts from vibration-induced annoyance may occur at residences within 50 feet of the most vibration-intensive construction equipment to the northeast and south of the project site. In addition, potential vibration impacts causing cosmetic damage could occur when operating intensive construction equipment at the northeast corner of the site near 215 Carnation Avenue.	The CMP requires, among other things, that the Applicant agree to indemnify the property owners in the immediately contiguous lots against any cosmetic damage to their homes resulting from vibration caused by construction activities necessary to complete the project as a condition to the issuance of demolition permits for the existing structure. This indemnify obligation is subject to those contiguous owners providing Applicant, if requested, with access to their structures to allow a pre-demolition inspection of the current condition of all structures on those properties. The CMP also requires that vibration probes will be placed at 215 Carnation Avenue to monitor construction activities. A vibration monitoring program will identify any construction activity which exceeds the criteria for cosmetic damage. If excessive vibration is found to occur, other construction methods will be employed, if possible, to eliminate any occurrence of cosmetic damage. Such alternative construction methods include, but are not limited to, use of different drill bits for the caisson drilling, use of less vibration-intensive construction vehicles, use of drilling and insertion of expansive grout to fracture rock, and/or use of lubricants for the caisson drilling. Because the CMP is part of the Project Description, the evaluation of potential cosmetic damage from vibration considers activities required by the CMP to be incorporated within the project itself. Implementation of the measures cited in the CMP will ensure that vibration-induced cosmetic damage impacts from caisson drilling, use of a ram hoe, and/or use of a large tracked dozer are avoided.	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
Public Health and Safety		
	SC 4.8-1 The City of Newport Beach will require all plans for proposed uses within the project site to comply with all applicable Federal, State, and local regulations pertaining to the transport, storage, use and/or disposal of hazardous materials on the site.	
Project implementation would result in the demolition of the existing residential structures occupying the site, which would affect materials that contain detectable amounts of ACM.	MM 4.8-1 Any repairs, renovations, removal or demolition activities that will impact the ACM or inaccessible ACM shall be performed by a licensed asbestos contractor. Inaccessible suspect ACM shall be tested prior to demolition or renovation. Air emissions of asbestos fibers and leaded dust would be reduced to below a level of significance through compliance with existing federal, state, and local regulatory requirements. Proper safety procedures for the handling of suspect ACM shall always be followed in order to protect the occupants of the building and the asbestos workers.	Less than Significant
Project implementation would result in the demolition of the existing residential structures occupying the site. Several building components were identified to contain LBP with a lead concentration equal to or greater than 1.0 mg/cm^2, which is the current regulatory threshold for the identification of LBP.	MM 4.8-2 A contractor performing paint removal work shall follow the OSHA lead standard for the construction industry. The lead content of the paint should be considered when choosing a method to remove the pain, as proper waste disposal requirements and worker protection measures shall be implemented throughout the removal process.	Less than Significant
Soils and Geology		
	SC 4.9-1 All activities associated with the implementation of the proposed residential development shall comply with the City's Excavation and Grading Ordinance. SC 4.9-2 The project shall comply with all applicable City and 2007 California Building Code requirements. SC 4.9-3 The property owner(s) shall execute and record a waiver of future shoreline protection for the project prior to the issuance of a building permit. Said waiver shall be subject to the review and approval of the City Attorney. SC 4.9-4 Accessory structures shall be relocated or removed if threatened by coastal erosion. Accessory structures shall not be expanded and routine maintenance of accessory structures is permitted.	

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
Although the site is suitable for the proposed development, construction of the proposed residential structure may be affected by the existing geologic and geotechnical engineering factors, including regional seismicity, bedrock, corrosive soils, erosion, etc.	MM 4.9-1a Project implementation shall adhere to the engineering recommendations for site grading and foundation design and construction presented in the Conceptual Grading Plan Review Report prepared by Nebeitt & Associates, Inc., and subsequent detailed geotechnical engineering analyses. MM 4.9-1b Accessory structures shall be relocated or removed if threatened by coastal erosion. Accessory structures shall not be expanded and routine maintenance of accessory structures is permitted.	Less than Significant
The site (i.e., proposed dock) will be exposed to storm waves generated associated with passage of winter pre-frontal storm winds and southern hemisphere swell that typically occurs in the summary months. Extreme wind waves from the SSE-SSW are expected to exceed the recommended maximum wave heights, which may result in damage to the moored vessels and/or docking facilities.	MM 4.9-2a During periods when boats would be exposed to excessive wave-induced motions, boats should be sheltered at mooring can locations that are available inside Newport Harbor to avoid damage. MM 4.9-2b The dock design shall be based on the extreme wave conditions identified in the coastal engineering study (Noble Consultants, Inc., 2008).	Less than Significant
Agriculture		
No Prime Farmland, Farmland of State or Local Importance, or Unique Farmland occurs within or in the vicinity of the site. The site and adjacent areas are designated as "Urban and Built-up Land" and "Other Land" on the Orange County Important Farmland Map. Further, neither the site nor the adjacent areas are designated as prime, unique or important farmlands by the State Resources Agency or by the Newport Beach General Plan. Therefore, no impact on significant farmlands would occur with the proposed project.	No significant impacts are anticipated and no mitigation measures are required.	No Impact
Biological Resources		
	SC 4.7-1 The project shall comply with California Code Title 14 (Natural Resources), Section 29.05, which prohibits the taking of any marine organisms within 1,000 feet of the high tide line without a sportfishing license. SC 4.7-2 Bluff landscaping shall consist of native, drought tolerant plant species determined to be consistent with the California coastal buff environment. Invasive and non-native species shall be removed. Irrigation of bluff faces to establish re-vegetated areas shall be temporary and used only to establish the plants. Upon establishment of	

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	the plantings, the temporary irrigation system shall be removed.	
Within the current development footprint there is a potentially suitable habitat for the nine special status plants. It is possible that future development of the subject property as proposed could adversely affect one or more special status plant species, should they exist on the site and nesting avian species that may occupy introduced non-native trees and other landscape species. However, the CMP incorporates features to ensure that these impacts are avoided.	The CMP includes several measures that will be implemented as part of the project to ensure that potential impacts to sensitive plant species and other terrestrial biological resources are avoided. The measures prescribed in the CMP include: • A qualified biologist shall conduct a pre-construction survey for active nests of covered species at least seven (7) days prior to any habitat disturbance that occurs during the nesting season (February 1 to August 31). If no active nests are round, no further actions are required. However, if nesting activity is observed during the pre-construction survey, the nest site must be protected until nesting activity has ended or as otherwise directed by a qualified biologist in order to ensure compliance with the MBTA and the California Fish and Game Code. • Bluff landscaping shall consist of native, drought tolerant plant species determined to be consistent with the California coastal buff environment. Invasive and non-native species shall be removed. Irrigation of bluff faces to establish re-vegetated areas shall be temporary and used only to establish the plants. Upon establishment of the plantings, the temporary irrigation system shall be removed. • A qualified botanist shall perform focused surveys to determine the presence/absence for the nine sensitive plant species. The focused surveys shall be performed during the appropriate blooming window identified for each species. Survey methods shall follow CDFG guidelines. If any State-listed threatened or endangered plant species are impacted by project development, an incident take permit pursuant to Section 2081 of the Fish and Game Code shall be obtained prior to issuance of a grading permit.	Less than Significant
A small portion of the existing eelgrass bed (approximately 30 square feet) would potentially be affected by shading effects from vessels docked within the slips and the concrete dock structure if not properly addressed. Impacts to eelgrass are avoided through the implementation of measures prescribed in the CMP.	The following measures will be undertaken as identified in the CMP (refer to Section 7.3 – Environmental Protection) to ensure that potential impacts to eelgrass are avoided. • An updated pre-construction eelgrass and invasive algae survey shall be completed within 30 days of the initiation of the proposed dock/gangway construction. The results of this	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	survey will be used to update the results of the March 2007 eelgrass survey and to identify, if any, potential project-related eelgrass losses and the presence or absence of the invasive algae (*Caulerpa taxifolia*) in accordance with NMFS requirements. • A post-construction project eelgrass survey shall be completed within 30 days of the completion of project construction in accordance with the Southern California Eelgrass Mitigation Policy (NMFS 1991 as amended, Revision 11). The report will be presented to the resources agencies and the Executive Director of the California Coastal Commission within 30 days after completion of the survey. If any eelgrass has been impacted in excess of that determined in the pre-construction survey, any additional impacted eelgrass will be mitigated at a ratio of 1.2:1 (mitigation to impact). • Eelgrass shall be mitigated based on two annual monitoring surveys that document the changes in bed (i.e., area extent and density) in the vicinity of the footprint of the boat dock, moored vessel(s), and/or related structures during the active-growth period for eelgrass (typically March through October). Mitigation shall be implemented pursuant to the requirements of the Southern California Eelgrass Mitigation Policy (NMFS 1991 as amended, Revision 11). A statement from the applicant indicating their understanding of the potential mitigation obligation that may follow the initial two-year monitoring is required. If losses are identified, a final eelgrass mitigation plan shall be submitted to the City of Newport Beach and resources agencies for review and acceptance. • The project marine biologist shall mark the positions of eelgrass beds in the vicinity of the dock and gangway construction area with buoys prior to the initiation of any construction activities. • The project marine biologist shall meet with the construction crew prior to initiation of construction to orient them to specific areas where eelgrass presently exists. • Support vessels and barges shall maneuver and work over eelgrass beds only during tides of +2 feet mean lower low	

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	water (MLLW) or higher to prevent grounding within eelgrass beds, damage to eelgrass from propellers, and to limit water turbidity. • Anchors and anchor chains shall not impinge upon eelgrass habitat.	
Disturbances to the sandy cover intertidal and shallow subtidal habitat, eelgrass, and sand dollar bed within the cove would be considered a significant adverse impact to on-site marine resources if not adequate addressed. The CMP incorporates several measures to ensure that these potential effects are avoided.	To ensure that project-related impacts to these and other intertidal marine resources will be avoided, the CMP specifies several project elements/measures to be implemented, including: • Construction activities associated with the elevated walkway leading to the gangway, and construction personnel shall avoid impacts to rocky intertidal habitat and to eelgrass beds and sand dollar habitat within the Carnation Cove by, among other things, (a) posting signage at key access points in front of the beach and on the elevated walkway stating that access is limited to the elevated walkway during construction; (b) using yellow tape to prevent access to rocky intertidal habitat, eelgrass beds, and sand dollar habitat; and (c) prohibiting access to the water and rocky shoreline within the cove.. • Residents shall be informed of the sensitivity of the cove as a unique marine biological habitat to assist in ensuring the long-term protection of the cove's marine biological resources. • Signage shall be posted at access points in front of the beach and on the elevated walkway, which state that access is limited to the elevated walkway during construction. In addition, yellow tape shall be used to prevent access. Access shall not be permitted to the water or rocky shorelines within the cove. • A silt curtain will be placed around all water-side construction activity during the construction of the dock system to limit the spread of turbidity. If prolonged turbidity is observed outside the silt curtain then the silt curtain shall be re-deployed and re-positioned in a manner to correct the problem. Removal and emplacement of the piles will be conducted using Best Available Technology (BAT) that limits the re-suspension of sediments and the creation of turbidity plumes. • Silt curtains will be emplaced and maintained in working condition throughout the period of construction by the marine	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	contractor. If turbidity plumes are observed in the vicinity of the cove in front of the development, an additional silt curtain will be immediately placed in front of the cove's entrance until the turbidity plume has dissipated. • Debris bins will be placed at the project site. Material collected will be removed on a daily basis. The amount, type, and location of any large debris (e.g., piles, dock parts, concrete, etc.) that is deposited on the seafloor will be documented and removed prior to the completion of the project. The project marine biologist shall also inspect the seafloor following the completion of construction to ensure that all debris has been removed. • The project marine biologist will perform weekly on-site inspections to ensure that BMPs and mitigation measures are being implemented during construction. • Post-construction marine biological surveys (per permit conditions) shall be performed to map eelgrass cover in the project area using the same methodology as the pre-construction survey and also to document the condition and density of the sand dollar beds within the cove.	
	Aesthetics	
The project has been designed to avoid significant visual impacts. Although some views from the channel would be momentarily affected by the construction of the boat dock and related facilities, no important visual amenity would be destroyed or permanently affected. Therefore no significant impacts are anticipated and no mitigation measures are necessary.	SC 4.5.1 Lighting shall be in compliance with applicable standards of the Zoning Code. Exterior on-site lighting shall be shielded and confined within site boundaries. No direct rays or glare are permitted to shine onto public streets or adjacent sites or create a public nuisance. "Walpak" type fixtures are not permitted. Parking area lighting shall have zero cut-off fixtures and light standards shall not exceed ___ feet in height. SC 4.5-2 Prior to issuance of the certificate of occupancy or final of building permits, the applicant shall schedule an evening inspection by the Code and Water Quality Enforcement Division to confirm control of light and glare specified in Condition of Approval No. __. SC 4.5-2 The applicant shall dedicate a view easement; however, it will only affect the project site. Structures and	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	landscaping within the easement area shall not be permitted to block public views. The easement shall be recorded prior to the issuance of a building permit for new construction and shall be reflected on the final tract map.	
Cultural Resources		
	SC 4.10-1 If human remains are encountered, State Health and Safety Code Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to Public Resources Code Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be Native American, the County Coroner will notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 24 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials. SC 4.10-21A qualified paleontologist shall be retained by the project applicant to develop a Paleontological Resource Impact Mitigation Program (PRIMP) consistent with the guidance of the Society of Vertebrate Paleontology (SVP). In the event that fossils are encountered during construction activities, ground-disturbing excavations in the vicinity of the discovery shall be redirected or halted by the monitor until the find has been salvaged. Any fossils discovered during project construction shall be prepared to a point of identification and stabilized for long-term storage. Any discovery, along with supporting documentation and an itemized catalogue, shall be accessioned into the collections of a suitable repository. Curation costs to accession any collections shall be the responsibility of the project applicant.	
No cultural resources were identified during the survey conducted on the project site. In addition, no archaeological sites have been recorded on the site and no historic resources exist on the subject property. Project	Implementation of the standard conditions will ensure that potential impacts to archaeological and paleontological resources will be avoided. No significant impacts will occur and no mitigation	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
implementation will result in site alteration that could encroach into the Monterey Formation, which is known to contain abundant fossilized marine invertebrates and vertebrates. Although grading and excavation within this formation could encounter fossils that may exist within the Monterey Formation, paleontological monitoring prescribed in SC 4.10-2 will ensure that potential impacts will not occur. No significant impacts to paleontological resources will occur.	measures are required.	
Recreation		
The project will result in a decrease of dwelling units and, as a result, a reduction in the number of residents that would be generated when compared to the 15 existing dwelling units and the 28 units that would be permitted by the Newport Beach General Plan. With a pool, private outdoor decks that may have spas and fire pits, as well as direct access to the beach area, most residents of the proposed project are expected to utilize their private recreation amenities rather than public parks within the City. Although residents of the proposed project would occasionally visit local and regional parks and beaches, use of those public facilities by the future residents would not represent a substantial change in the intensity of usage and the impact would not result in substantial physical deterioration of those park areas.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Mineral Resources		
The project site is currently developed with a 14-unit apartment structure and one single-family residential dwelling unit. Neither the Newport Beach General Plan (Recreation and Open Space Element) nor the State of California has identified the project site or environs as a potential mineral resource of Statewide or regional significance. No mineral resources are known to exist and, therefore, project implementation will not result in any significant impacts.	No significant impacts are anticipated and no mitigation measures are required.	No Significant Impact
Drainage and Hydrology		
	SC 4.6-1 Prior to issuance of a grading permit, the project applicant shall be required to submit a notice of intent (NOI) with the appropriate fees to the Regional Water Quality Control Board for coverage of such future projects under the General Construction Activity Storm Water Runoff Permit prior to initiation of construction activity. As required by the NPDES permit, a Storm Water Pollution and Prevention Plan (SWPPP) will be prepared and will establish BMPs in order to reduce sedimentation and erosion.	

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	SC 4.6-2 Prior to issuance of a grading permit, the project applicant shall prepare a Water Quality Management Plan (WQMP) for the project and submit the WQMP to the Regional Water Quality Control Board for approval. The WQMP shall specifically identify Best Management Practices (BMPs) that will be used to control predictable pollutant runoff, including flow/volume-based measures to treat the "first flush." The WQMP shall identify at a minimum the routine structural and non-structural measures specified in the Countywide NPDES Standard Urban Stormwater Mitigation Plan (SUSMP), which details implementation of the BMPs whenever they are applicable to a project, the assignment of long-term maintenance responsibilities, and shall reference the locations of structural BMPs SC 4.6-3 Prior to issuance of a grading permit, the project applicant shall prepare a Storm Water Pollution and Prevention Plan (SWPPP) and submit that plan to the City of Newport Beach for approval. The SWPPP will establish BMPs in order to reduce sedimentation and erosion. SC 4.6-4 Future site grading and construction shall comply with the drainage controls imposed by the applicable Municipal Code requirements prescribed by the City of Newport Beach.	
Although project-related storm runoff would be decreased, the existing catch basin near the corner of Carnation Avenue and Ocean Boulevard is deficient and cannot accommodate the existing or post-development 100-year storm flows from the drainage area, including the project site. However, the project includes upgrading the capacity of the catch basin to accommodate storm flows within the 11.54-acre drainage area. Therefore, no significant hydrology impacts will occur as a result of project implementation.	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant
Construction of the replacement dock facility and related activities associated with the use of heavy equipment, the operation of a barge, etc., could result in potential water quality impacts, including turbidity, which could adversely affect the marine habit and species, including eel grass. However implementation of the design features prescribed in the CMP will ensure that these potential adverse effects are avoided.	The measures listed below, which are also included in the CMP, are design features of the proposed project. Implementation of these features will result in the avoidance of potential water quality impacts. ▪ All debris and trash shall be disposed in suitable trash containers on land or on the work barge at the end of each construction day.	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
	• Discharge of any hazardous materials into Newport Bay is prohibited. • Silt curtains shall be deployed around work barges and around the pile sleeving or drilling operations where feasible to minimize the spread of turbid waters into adjacent eelgrass beds within and outside the project area. • All construction debris shall be removed from the bay floor daily.	
Public Services		
The project has been designed with several features to facilitate and enhance the provision of adequate fire protection, including an emergency communication device, which will be provided to the existing concrete pad at the beach level and a new wet standpipe, which will be provided to the existing docks. In addition, an automatic and manual fire alarm system will be installed, a fire control room is provided at ground level, which will be monitored by a central station, and a Class I wet standpipe will be provided at every level at all stairs to facilitate fire protection.	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant
Redevelopment of the subject site to replace 14 apartment units and one single-family residence with eight luxury condominium homes would not require an expansion to local law enforcement resources and therefore would not result in any environmental impacts involving construction of new law enforcement facilities.	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant
It is estimated that fewer than 20 students, distributed between various grade levels, would be generated by the proposed project. New or expanded school facilities would not be required to provide classroom and support space for these low numbers of school age children.	The project applicant must pay the applicable school fee to the school district, pursuant to Section 65995 of the California Government Code, in order to offset the incremental cost impact of expanding school resources to accommodate the increased student enrollment associated with new residential development, including the proposed project. With the payment of the mandatory school fees, no significant impacts would occur as a result of project implementation.	Less than Significant
Population and Housing		
The project will result in a decrease in the total number of dwelling units from 15 to eight; therefore, project implementation would not result in a substantial increase in population based on the population per household recognized by the City of Newport Beach. All proposed utility services can be provided through connections to	No significant impacts are anticipated and no mitigation measures are required.	Less than Significant

Potential Impact	Mitigation Measures[1]	Level of Significance After Mitigation
existing main line facilities that exist on or near the project site. With the exception of the existing 10-foot catch basin in Carnation Avenue that is inadequate to accommodate existing surface runoff, the proposed project would not require expansion of any other infrastructure facilities that could support additional growth. As a result, no significant impacts are anticipated		

Attachment No. 4

Subcommittee Report on NOP for Newport Banning Ranch Development Project

Debby Linn, Contract Planner
City of Newport Beach
Planning Department
3300 Newport Boulevard
Newport Beach, California 92658

Dear Ms. Linn:

The Environmental Quality Affairs Citizens Advisory Committee ("EQAC") of the City of Newport Beach ("City") thanks you for the opportunity to comment on the Notice of Preparation ("NOP) for the Newport Banning Ranch Project ("Project") and the scope and content of the Program Environmental Impact Report ("EIR") that the City plans to prepare. EQAC's comments are outlined below and relate to a number of areas, including, but not limited to, aesthetics, biological resources, cultural resources, geology, hazards, hydrology, land use, noise, and transportation.

First and foremost, the EIR needs to consider the General Plan's clear preference that the entire Banning Ranch be preserved as permanent open space, along with the implementing strategy of actively pursuing the acquisition of the site as permanent open space. In addition, EQAC specifically requests that, where the EIR refers to the General Plan and its discussion of Banning Ranch, the EIR should cite to and quote the General Plan specifically.

Project Site. According to the City's General Plan, Banning Ranch encompasses approximately 518 acres of primarily undeveloped land with some historic oil extraction infrastructure, including oil wells, pipelines, and buildings (General Plan, pp. 3-67 – 3-68). The General Plan states that "the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands" (General Plan, p. 3-68). Banning Ranch provides wildlife with a "significantly large, diverse area for foraging, shelter, and movement" (General Plan, p. 3-68). The site contains about 69 acres with a habitat value rank of "1" with a high biological resource value, 96 acres with a rank of "2," and 118 acres with a rank of "3." In addition, "Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community" (General Plan, p. 3-71).

General Plan Priority for Permanent Open Space. For these and other reasons, the General Plan "prioritizes the acquisition of Banning Ranch as an open space amenity for the community and region. Oil operations would be consolidated, wetlands restored, nature education and interpretative facilities provided, and an active park developed containing playfields and other facilities to serve residents of adjoining neighborhoods" (p. 3-71). To further this policy, the General Plan contains a strategy to "support active pursuit of the acquisition of Banning Ranch as permanent open space, which may be accomplished through the issuance of state bonds, environmental mitigation fees, private fundraising, developer dedication, and similar techniques" (Strategy LU 6.3.2). If acquisition for open space is not successful, then the site may be developed as a high-

quality residential community with supporting uses that provide revenue to restore and protect wetlands and important habitats (Goal LU 6.4).

Accordingly, the EIR must first address the General Plan's policy prioritizing the acquisition of Banning Ranch as an open space amenity for the community and region (Policy LU 3.4). Given the General Plan's clear preference that the entire site be preserved as permanent open space, the EIR must discuss this preference, why the permanent open space preference is not being pursued, and why the development of 1,375 residential dwelling units, 75,000 square feet of commercial uses, and 75 overnight resort accommodations must be considered for approval in the near future, rather than continuing to actively pursue the acquisition of the site as permanent open space.

Aesthetics. As stated in the General Plan, "Banning Ranch exhibits distinctive topography that is a physical and visual resource for the community," and the site provides "an important visual backdrop from West Coast Highway" (p. 3-71). EQAC further understands that the undeveloped nature of the site is considered an asset by adjoining communities including Newport Shores, Newport Crest, and Lido Sands as well as residents, commuters and passers-by along West Coast Highway and parts of the Cities of Costa Mesa and Huntington Beach. Accordingly, the EIR must consider whether the Project will have a substantial adverse effect on scenic vistas, whether it will damage scenic resources, and whether it will substantially degrade the existing visual character or quality of the site and its surroundings.

Biological Resources. As discussed above, the General Plan states that "the area should be regarded as relatively high-quality wildlife habitat due to its size, habitat diversity, and continuity with the adjacent Semeniuk Slough and federally restored wetlands" (General Plan, p. 3-68). In addition, the City has identified Banning Ranch as an Environmentally Sensitive Habitat Area that contains one or more sensitive plant communities and many species of wildlife (General Plan, p. 10-8). The Natural Resources Element of the General Plan call for the protection of the sensitive and rare resources that occur on Banning Ranch; and, if future development is permitted, requires than an assessment be prepared delineating sensitive and rare habitat and wildlife corridors. The Natural Resources Element further requires "that development be concentrated to protect biological resources and coastal bluffs, and structures designed to not be intrusive on the surrounding landscape. Require the restoration or mitigation of any sensitive or rare habitat areas that are affected by future development" (General Plan, p. 10-27). Given the significant biological resources present at Banning Ranch, the EIR must consider whether the project would (1) have a substantial adverse effect on protected species, (2) have a substantial adverse effect on riparian habitats or other sensitive natural communities, (3) have a substantial adverse effect on federally protected wetlands, and (4) interfere substantially with the movement of any native or migratory fish or wildlife species or with established wildlife corridors.

Cultural Resources. The General Plan recognizes that Banning Ranch contains significant fossils and known paleontological deposits, including at least 14 documented sites of high significance ((General Plan, p. 10-15). The EIR should consider whether the

Project would cause a substantial adverse change in the significance of historical and archaeological resources, whether it would directly or indirectly destroy unique paleontological resources, or disturb human remains.

Geology and Soils. Banning Ranch contains significant coastal bluffs, some of which are highly erodible and have experienced sliding over the years (General Plan, p. 3-71). The site is also located adjacent to the Newport-Inglewood Fault (NOP, p. 5). We understand the Project also calls for the restoration of some coastal bluffs (NOP, p. 18). The EIR will need to consider whether the Project would expose people or structures to potential adverse effects involving an earthquake fault and landslides, and whether the Project would result in substantial soil erosion or potentially result in landslides.

Hazards. Oil extraction activities at Banning Ranch date back at least 75 years (General Plan, p. 3-68). The Project contemplates that existing oil wells within the proposed development and open space areas would be abandoned with those areas remediated (NOP, p. 11). In addition, oil production would be allowed to continue within about 20 acres of the Project site within two specific consolidation sites (NOP, p. 15). Given the historic oil production at the site and the expected continuation of oil production, the EIR will need to consider (1) whether the existing oil infrastructure would create hazards to the public or the environment, and (2) whether the continued operation of oil wells will create any significant hazard to the public or the environment through reasonably foreseeable accident conditions.

Hydrology and Water Quality. Drainage from upland areas in and adjoining the City of Costa Mesa have formed a number of arroyos with riparian habitats at Banning Ranch (General Plan, p. 3-71). We also understand that some stormwater drains pass through or under the Project site. The EIR will need to consider whether the Project would substantially alter the existing drainage pattern of the area, including the alteration of streams, and whether it would create or contribute runoff water that would exceed the capacity or existing or planned stormwater drainage systems.

Noise. The Project proposes 1375 dwelling units, 75,000 square feet of commercial use, 75 hotel rooms, and passive and active park uses, all of which will contribute to increased noise levels in a currently undeveloped area. We understand that increased noise levels are of particular concern to the nearby Newport Shores, Newport Crest and Lido Sands communities. Therefore, the EIR will need to consider whether the Project would (1) result in exposure of persons to noise levels in excess of established standards, and (2) result in a substantial permanent or temporary increase in ambient noise levels in the Project vicinity.

Traffic. The Project proposes an intersection into the Project site from West Coast Highway, the possible widening of West Coast Highway, the construction of Bluff Road from a southern terminus at West Coast Highway to a northern terminus at 19th Street, and the extension of 15th, 16th and 17th Streets. The EIR must consider whether these planned road improvements and extensions would (1) cause a substantial increase in

traffic, (2) exceed established levels of service (either individually or cumulatively), (3) result in inadequate emergency access, or (4) result in inadequate parking capacity.

Cumulative Impacts. The EIR must consider all of these issues on a individual project-level basis. In addition, the EIR must consider the cumulative impacts of the project, especially noise, traffic and land use. The City will soon be considering an EIR for the proposed Sunset Ridge project, located immediately to the south east of the Project site. Because of their proximity both in time and location and their potential to significantly affect the neighboring communities, the environmental effects of both Banning Ranch and Sunset Ridge (and any other projects) must be considered together. Under the California Environmental Quality Act, "[t]he full environmental impact of a proposed ... action cannot be gauged in a vacuum." *Whitman v. Board of Supervisors* (1979) 88 Cal.App.3d 397, 408. Thus, "[t]he requirement for a cumulative impact analysis must be interpreted so as to afford the fullest possible protection of the environment within the reasonable scope of the statutory and regulatory language." *Citizens to Preserve the Ojai v. County of Ventura* (1985) 176 Cal.App.3d 421, 431-432. Therefore, "[i]t is vitally important that an EIR avoid minimizing the cumulative impacts. Rather, it must reflect a conscientious effort to provide public agencies and the general public with adequate and relevant detailed information about them." *Id.* at 431.

Alternatives. An EIR must describe a reasonable range of alternatives to the project that could feasibly attain most of the objectives of the project while avoiding or substantially lessening any of the significant effects of the project. 14 Cal. Code Regs., § 15126.6. The NOP discusses an open space alternative, a no action/no development alternative, and a circulation alternative. In order to provide a reasonable range of alternatives for the public to consider, the EIR should include a "reduced footprint" alternative that would consist of development but at a reduced level lower than the proposed 1375 dwelling units.

We hope you find these comments helpful. Please contact the EQAC Committee should you have any questions.

Attachment No. 5

Subcommittee Report on NOP for City Hall and Park Project

NEWPORT CITY HALL NOP

EQAC REVIEW AND COMMENTS APRIL 15, 2009

It is apparent that the City of Newport Beach is in need of both a larger and more functional city hall and the proposed city hall and park design is well thought out in the NOP.

Some points to consider and some concerns follow.

It's important that the design include only native vegetation and open space is maximized. Walking/bike trails should appropriately connect the site with the community, perhaps in the city hall gardens adjacent to Avocado Avenue. A geotech report should be done to measure the infiltration rate, therefore determining whether the use of permeable walkways and driveways would be beneficial.

Due to the proximity of surrounding major retail and other businesses, a plan to facilitate construction parking and traffic will need to be drafted and included for review so there will be little impact on the community during that phase.

The current size, functionality and any future expansion of the library should be evaluated. Is there demand for more library space, and, if so, has future library expansion been taken into account in the design of the new city hall and park?

The design team has included future expansion plans for the city hall. How much expansion of the city hall in the future will be needed? We would recommend that the new city hall be built for current and future demand. Newport Beach is nearly a fully developed city. Modern technology and advances in communication are limiting the amount of time spent by employees working in offices. Future demand could be little or none for expansion.

Parking is always an important issue in any coastal community, including ours. The inconspicuous city hall parking structure appears to adequately address this issue. We would recommend that carpooling be encouraged by providing designated preferred parking stalls for carpoolers. Are the proposed 520 spaces adequate? Would the parking structure be better placed nearer to Avocado Avenue? If the MacArthur Blvd. side is the correct placement, perhaps there needs to be a MacArthur access to improve traffic flow, especially during peak ingress and egress.

The location of the city council chamber is another issue that could be a concern. The amphitheater could be oriented so that the audience is not facing the driveway and city hall entrance. This could be distracting. Other city amphitheaters should be investigated to determine what has worked best.

The playground area of the park is a positive addition. Safety in placement is important for this feature, with appropriate caution with proximity to the wetlands and MacArthur Blvd.

AESTHETICS, VIEWS AND NOISE CONSIDERATIONS

The proposed site is bordered on the west by Avocado and on the east by MacArthur and both have been designated as "Coastal View Roads" by the city. To the west of Avocado, and at a lower elevation, is a significant commercial development, including Fashion Island. Directly to the east, across MacArthur Blvd. and at a higher elevation, is an established and view oriented residential neighborhood. MacArthur Blvd. crests at San Joaquin Road while traversing south towards the Pacific Ocean, at which point a beautiful and natural scenic vista opens with breathtaking views over the project site of the ocean, Catalina Island and beyond. As such, the proposed construction at the site will have a potentially negative impact on this noted scenic vista. This view is currently enjoyed by visitors to our city, the neighborhood to the east and other residents who visit the site for beautiful views and recreation. Since the project calls for a 90,000 sf. city hall and a 20,000 sf. expansion of the library and a related large parking structure, this represents a negative impact on the area's aesthetics. This negative impact will also be significant at night as a result of the light and glare which will come from the addition of substantial lighting sources, including night long security and parking lighting. All aspects of aesthetics should be addressed in the EIR, including relevant corrective measures necessary to mitigate the significant negative impact detailed in his paragraph.

It should also be noted that the unique topography that gives rise to the site's scenic vistas also makes the site a unique and natural buffer zone between the neighboring residential community to the east and the congestion and noise of the expansive and commercial area to the west. Thus, the corrective measures and mitigation studies and measures that should be addressed in the EIR to lessen the impact on aesthetics need also take into account the preservation of the buffer zone quality of the site as it currently exists.

Submitted by the following members of EQAC, for EQAC:

Kevin Nolen Vincent J. LePore III Bruce Asper